CHARLATANS

Why Courts use Lies in a Fake Theater of Law

Based on the Work of Thomas Sowell

and Friedrich Hayek

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I. UTOPIAN INFORMATION ECONOMICS IN LAW

1. Coordination of Civilization - Why Judges Let Cops Lie

Progress of civilization is based on the coordination of complete strangers to act in service of the interests of one another or act on behalf of one another. And more miraculously, to use information that only they know -- to use information that's only known to an individual at a local spot -- on behalf of the benefit of a total stranger whom he has never met. (Like finding a nice branch on your property, and using it to make a tool for someone on the other side of town, rather than a spear to kill him.)

The function that breaks down in all corrupt totalitarian states, and is breaking down in the United States today based on the judicial system, is one where popular misconceptions about what mechanism is doing this coordinating -- misconceptions about how people can get decision-makers to do what they want, e.g. democracy -- leads to there being no coordination that gets people to act on behalf of the interests of each other. If you elevate the wrong paradigm to coordinate people, and disdain the system that actually works, people will harm rather than help each other, and you will have conflict rather than commerce with strangers.

What makes a system of beneficial coordination with strangers even more extraordinary, is it's the opposite of how people are instinctively designed to operate. Man is designed for the environment in which he originally existed when, like an animal, his survival depended on land resources. When people were like animals that can make more offspring than the land can support, the most productive activity to conserve a civilization, was to die in war killing competing tribes as competitors for land resources. If you are going to starve anyway, dying in war has no cost. But it has the benefit that the few survivors may be from your clan rather than competitors. When people are

capable of producing more offspring than the land can support, and with no other natural predators, the job of culling men falls to other men.

So man's instinct, even when he doesn't understand what he is doing or why he's doing it, is to harm strangers he has never met, as competitors for land resources who are of no use to him. So that entire political parties and cultures will form around serving man's impulse to harm strangers. Like an alcoholic who seems to unconsciously veer downhill to the pub. While wealthy prosperous societies that force cooperation will expand like cancer, against the conscious wishes of their citizens who will fight against the shackles of coordination every day of the year.

People don't pack into stadiums, to watch people from one city cook food and build shelters for a group of complete strangers from another city. But civilizations that stop people's natural aggression even in defiance of their conscious wishes, will explode as if their minds have become infected cancer cells. While those that indulge people's original impulses the way they were born, will contract and be replaced.

And there is the equally peculiar feature that people think they are doing good and moral things by harming strangers. While they think that people who don't want to harm strangers, or want to stop others from harming strangers, are evil, and are going to take down society.

And finally, since the purpose of not just culture and religion but law, is to convert the behavior of people into doing things that benefit rather than harm strangers, one of the most important things is not just harming strangers or benefiting them, but lying to evade and hack the system that tries to get you to not harm people and to benefit them. The intermediate goal on the way to harming rather the helping strangers, is to

overthrow the system that forces you to do otherwise. For people to do what their impulses long for and destroy their own civilization, they first have to subvert the laws and institutions that force them to do things which conserve and grow their civilization.

People will generally consider themselves moral while doing this overthrowing the system, and that is the case with judges in the United States. In the 99% of cases where the public is not watching, and where nobody including the judge will ever read the filings or think deeply about the facts, judges recite lies and total nonsense. To just decide things the way they would be decided by kids in second grade. This abandons the irreplaceable role of courts to make the world a better place, like how people abandon capitalism thinking socialism is better. The rulings courts make, are designed to replace the law with something else more shortsighted and lazy and even utopian. As a business decision, courts indulge and cater to, rather than mitigate, people's impulses to harm strangers.

The purpose of cops committing perjury is to brush off courts and law, and move power to the executive branch. On the theory there is some mechanism more efficient than law and due process, to tell cops what you want them to do and monitor whether they are doing it. Perhaps you think you can monitor their activity through the political process. Or perhaps you think cops will do the things you would want them to do, because you share the same religion (as perhaps was expected of altruistic factory managers in the USSR). The purpose of courts letting cops lie, is to move the supervision and monitoring of their behavior away from laws inherited or passed by legislators, and toward supervision by local social consensus or political process. On the theory that conscious collective supervision is superior to distributed decision making and written law, for serving the common good.

It may seem hard to believe that state witnesses lying could be a major feature of the justice system, But if you think of it as simply incorrect information, it is easy to understand that in the USSR, economic planners had worse information about demand and scarcity, than business decision makers in the United States. Better and worse information only becomes lies when you think of it from the vantage point of an all-seeing mind that knows better what is true and false. In the real world, there is no collective consciousness to know what is true and false. Factory managers in the USSR did tell plain lies every day to other government employees. But once such lies leave the vantage point of the liar, they can no longer be separated from truth, it is all just information. So that to the broader collective of society, which information is true and false is lost in the mist of generally better and worse results.

2. Mind Blindness Creates Political Conflict

A while back, a parody news website "The Onion" made a sarcastic video about students having trouble understanding the concept of object permanence. This is the idea that when you see an apple, and then you stop looking at it, it is still there. But there actually is a simple concept required for civilization to function - not for a lone individual or tribe but for a complex civilization to function - and which if people fail to recognize, they will forever try to create a world that cannot function.

This is the idea that when one person sees an apple, another person does not see it or know about it. And this is impossible to ever completely overcome. There is never a single "there is an apple". And this is both the central problem civilization must overcome, and the main benefit the world has to make use of (because it enables us to process more information than a single decision maker could process). Rather than trying to solve the problems we would be faced with if everyone saw and knew the same things, and solve them as if everyone did.

Imagine if every time you wanted to go to the grocery store, you had to argue with your family about whether you have a car, because some imagine you don't simply because it is in the garage where they can't see it. Most of our political debates result from different assumptions about the extent to which people at different vantage points know different things. And from different degrees of recognizing that the problem we have to overcome is that they don't, rather than proceeding from the assumption that they do.

This is glossing over the main problem, and then not understanding why others are fighting against you. The world we live in is almost as dysfunctional as if you had to spend every day arguing with your family about how to get to the grocery store. Based on disagreements about whether a car exists which you can't see. Or whether you can see everything.

Simple ideas about how we can use elections to get government employees to do things that benefit us, gloss over the problems of how can you tell the government what you want, and how can you see what the government is doing and what the effects are? Can you see everything government is doing? Or can they hide it from you and lie about it? Can government know what you want from an election? Or do we need local decision makers to discover this information and make decisions based on it?

This is the same as the disagreement that some people think we need private businesses like McDonalds to figure out what food we want and provide it for us. And others imagine that the government could discover what food we want and provide it to us. Some imagine this can basically be done by voters monitoring the decisions of every McDonalds manager, and voting to replace the ones who don't give people the food they want.

How about the government just deports the illegal immigrants who are members of gangs? The problem is that the government does not know which illegal immigrants are members of gangs, and you don't know what the government is doing. In effect, a government official can tell you "I see an apple, and I am eating it." The problem is not what to do if everyone had perfect information or the same information as everyone else. And there is a related problem of assuming everyone has the same values and agenda. The problem is overcoming that we don't.

And it is also a problem of people who imagine everyone sees and wants the same things, creating a world where they are taken advantage of by people who hide things in the area where they are not looking. So that people are captured almost as if by magicians. (For example, my friend is serving life without parole from age 21 for a crime which did not happen and all the evidence was faked.)

There are people who tell others "this is what we see", and people are captured by impulse into accepting things as a single social consensus. This is the primitive system for solving the vantage-point problem, where people in the same group with the same values tell each other what they see to arrive at a collective consensus. This primitive system fails, when the network does not survive or perish as a single group, and instead a person who is misled can suffer while a person who does the misleading can benefit.

And it is a problem that even where we have processes in place designed for a multiple-vantage-point world - such as private businesses and jury trials - single-vantage-pointers will forever be trying to sabotage and replace these processes based on not seeing the problem they are solving, often from within such as judges.

So that the entire system of civilization which is designed to get people to do things which benefit other people, gives over to selfishness and destruction in the areas people can't see. Rather than realizing the problem is to penetrate those areas. In effect to get people to employ the apple which only they know about, in a way that benefits others.

The simple system people want, who imagine everyone has the same values and information, is to hold a meeting for us to all get on the same page about what information we know and what values we want to serve, tell the executive branch what to do, and then watch whether the executive branch does it.

The complex system our civilization has evolved, to solve the problem we actually face, is local distributed decision makers using private information, characterized by:

1) knowledge of a domain, e.g. farming,
2) information the knowledge is applied to, e.g. the precipitation in a certain tract of land,
3) incentives and constraints that convey public costs and benefits to decision makers, such as the price system or established preferences recorded in laws, and
4) other independent decision makers who monitor whether each other are breaking the rules, with local processes to create penalties for breaking the rules.

There is no second vantage point where other people can check whether these distributed decision makers did the right things, because there is no second vantage point that can know the information they had. So second vantage points can only check intermittently whether such decision makers are following the rules, and deter them from breaking the rules with penalties on the occasion when they are caught breaking them. And because a single collective cannot monitor all these nodes to see whether they

are breaking the rules, competing local departments are established as checks to monitor one another (like the two-person system for missile launches).

Most people don't know most of the things most people are doing, or most people want. And yet the activities of complete strangers are encouraged and coordinated to serve the interests of people they never met, often in ways no person is conscious of. There is no second shortcut process, by which we can observe what the distributed process is doing, and consciously judge and change it. No single vantage point from which we can do this.

3. Law Professor Imagines Omniscient Being

To illustrate this is not obtuse theory, I want show you something really weird. In a recent article on "the Limits of Legality and of Judicial Review", Harvard Law Professor Adrian Vermeule makes clear that he really imagines the executive branch is one person who can see everything.
https://thenewdigest.substack.com/p/the-rule-of-law-the-rule-of-courts

Vermeule criticizes the idea that the executive branch won't confine its discretion to the law, unless it can be dragged into court by someone who sees wrongdoing:

> *"the trope is that the rule of law is somehow threatened if courts cannot take jurisdiction to inquire into, and provide a remedy for, every instance of allegedly illegal behavior by the executive. A corollary is the belief that the rule of law will pop like a soap bubble unless the executive instantly, and on pain of contempt, obeys every judicial order..."*

Notice how Vermeule sees multiple "courts", but imagines "the executive" (and voters)

as a single unitary object. Replace "courts" with "President", "executive" with "employee", and "judicial" with "presidential". Vermeule's passage would now say:

> *"the trope is that the rule of law is somehow threatened if the President cannot take jurisdiction to inquire into, and provide a remedy for, every instance of allegedly illegal behavior by the employee. A corollary is the belief that the rule of law will pop like a soap bubble unless the employee instantly, and on pain of contempt, obeys every Presidential order..."*

Vermeule imagines courts have imperfect information, but voters and executive-branch managers have perfect information. Vermeule thinks courts are checking the President from a separate department, as if the President is otherwise a single mind and vantage point with his employee:

> *"if judges are allowed to assume that the Presidency is indeed occupied by a man they deem to be bad"*

Vermeule also imagines that 51% of voters, in a single election, can discover information about and convey supervision to a single government employee, as well as a court proceeding can:

> *"courts using adjudicative procedures are hardly the only institutions that can check illegality or abuse of powers by public officials"*

Vermeule goes on to describe some situations where a court does poorly looking over the shoulder of a government employee, attempting to regulate the employee's behavior from a second vantage point:

"The error of attempting to accomplish through adjudicative forms what are essentially tasks of economic allocation...the necessity of allocating scarce resources in ways that cannot be reduced to questions of right"

"sense of trusteeship that goes with being given a job to do that makes sense and being allowed to do it the sensible way"

Vermeule's model of conveying preferences to decision makers is crude, so I will provide my own. Then we can proceed to see whether the multiple vantage points of the executive branch and voters are really superior to the multiple vantage points of a court imposing law on a government employee. A distributed decision maker consists of:

1) knowledge of a domain, e.g. farming,
2) information the knowledge is applied to, e.g. the precipitation in a certain tract of land,
3) incentives and constraints that convey public costs and benefits to decision makers, such as the price system or established preferences recorded in laws, and
4) other independent decision makers who monitor whether each other are breaking the rules, with local processes to create penalties for breaking the rules.

What Vermeule is calling situation-specific economic decisions is number two, information the knowledge is applied to. And what Vermeule is calling "trusteeship" is the incentive to create an outcome that benefits others. Vermeule imagines this comes internally from the beliefs and agenda of the decision maker. But we see from centrally-planned dictatorships, that decision-makers in industry need to be given incentives by the price system, and police need to be given incentives by law.

So let's use my model to compare supervision of a government employee by being dragged into court, versus being dragged into the office of his immediate supervisor in the executive branch. Let's imagine something like Vermeule envisioned, where the job of the government employee is to allocate radio frequencies so that cities with smaller and larger populations are best served.

The external preference is that we don't want all the radio frequencies given to a single radio station in a small town. And the internal preference is that the government employee can secretly sell the radio frequencies for money. The four elements in my model are:

1) knowledge of the radio business
2) information on the population of different cities
3) a law which says he has to allocate frequencies fairly
4) either voters or courts who can penalize him for allocating frequencies sub-optimally

First of all, certainly not the President of the United States, but not even the employee's immediate supervisor, can know the population details that go into the employee's decision, as well as the employee can know them. An immediate supervisor will fare no better trying to learn all the details that each of his employees knows, than a court which tries to learn the reason behind every decision.

Now suppose a local radio station notices he is getting no frequencies, while another radio station seems to be getting more frequencies than he needs. He can call the government employee and say give me some. Or if that fails, he can try to reach the government employee's supervisor. The employee may simply lie to his supervisor that

the complaining station has no listeners. Or, if the supervisor and employee are from the same political party in patronage jobs, the employee may point out to his supervisor that the radio station serves their political opposition.

The radio station owner is then left using political speech in the town square, to explain to his fellow voters how they are being cheated, and implore them that they should vote in the next election based on the single issue of radio-frequency allocation. Meanwhile the other side is also in the town square, telling the voters that the radio station owner is a crazy agitator who is lying to them. Very few voters will have the time to become experts on radio-frequency allocation.

Or, the short-changed radio-station can sue in court, that the government employee has gone outside the bounds of his discretion. The court can compel the government employee to show his data, and see whether he has violated his mandate to allocate frequencies based on some preference conveyed in law.

Neither the President nor the employee's immediate supervisor can ever hope to learn all the details of the radio business, and nor would they be bothered to when voters will not decide based on it. A local observer bringing the government employee to court, only in the case when he observes from his local vantage point that the employee has exceeded the boundaries of his discretion, is the only practical way to monitor whether the government employee has served his mandate.

Laws in court and votes in elections are both means of conveying the preferences of strangers to a government-employee decision-maker. And both are means of monitoring the government employee, to see whether his discretion has gone outside the set of rules conveyed as laws, or whether the outcomes of his decisions have served preferences.

Vermeule understands that courts, at a second vantage point, have information problems telling the government employee what to do, and monitoring whether he made the best decision given the information only he knew about. Vermeule also understands that voters could never supervise McDonalds managers, who have to be supervised directly by affected parties conveying information through prices, and by civil and criminal prosecution.

But as a basic human tendency toward collective thought, Vermeule imagines when voters are supervising a government employee they never met, in an election once every four years, to use information only he knows about for their benefit, these information problems magically disappear.

4. The Unitary Executive

Law professor Steven Calabresi's concept of "The Unitary Executive" relies on the same incorrect model of how society processes information, as industrial central planning and dangerous utopian movements in general.

They assume the sharing of information across vantage points is so perfect that there is in effect a single vantage point. But the problem our written laws have evolved to solve - through property rights and distributed decision-making - is that information is not perfect. And the resulting problem of coordinating independent actors to act on behalf of the benefit of others, when each person lives in his own private reality, sharing little information in common with others.

A king, a dictator, a scientist in a lab, and a person living alone in the woods all have one thing in common: They have a single vantage point at which all information is known,

and from which all action is directed. From that point, the problem is deciding what to do to best benefit yourself, based on that information.

The problem then, is imagining society as this single self. If you assume the voters know everything -- if voters know all resources and preferences including the values of minority voters -- and if you assume the single executive can order all actions that are optimal based on that information, then anybody not acting in this chain from information to action will create a less optimal outcome.

If voters are the eyes, the collective perception is the brain, and the executive-branch employees are the arms, then of course any severing of the body will impair its function. This simplified model of the world, which might have been somewhat accurate in primitive forms of society from which we have progressed, seems to be the entire intellectual foundation supporting the "Unitary Executive".

In his book "The Unitary Executive", Calabresi said of executive-branch employees:

> *"They are thus all subject to the president's powers of direction and control."*

Calebresi assumes the President, and even the voters, have the infinite mind and vision of God. But simply saying this does not overcome the real-world information problems of monitoring and enforcement, which have turned utopian-designed societies into nightmares.

In reality the information known to voters collectively, the information transmitted to a President in a single election every four years, and the observations of local actions of executive-branch employees, are all fragmented and imperfect. Our form of government is evolved to overcome this problem by distributing incentives and decision-making to

local decision makers, not to operate as if this information problem doesn't exist.

Calabresi said:

> *"a unitary executive to ensure energetic enforcement of the law, and to promote accountability by making it crystal clear who is to blame for maladministration."*

Neither what some individual government employee does, nor the effects, is ever "crystal clear" to even one voter. Not even to the wife or co-worker of the government employee, nor to a manager of a manager one level away. The government employee's administration and its effects are certainly not detailed in the collective perceptions expressed by one candidate beating another, by 1% when elected President every four years.

Never mind that when the time comes, voters don't even want to enforce laws, which only anticipate general circumstances with general instructions. Voters want actual specific outcomes, to the extent they can even know or monitor them. And they want those outcomes in the actual emergent circumstances as they are perceived by voters. Where what the voters even know, only arrives across an ocean of gossip, myths, grifters, political hustlers, and misinformation from demagogues. Voters then want the government to ignore law, to fulfill whatever fantasy the voters imagine.

Voters mostly know religions and witch-myths. The idea of voters knowing the details of maladministration, and transmitting those details to the President to hold him accountable, which President then directly monitors and supervises the local government employee to fix those details, is utopian nonsense.

Friedrich Hayek expressed the problem as:

> *"If we possess all the relevant information, if we can start out from a given system of preferences and if we command complete knowledge of available means, the problem which remains is purely one of logic... This, however, is emphatically not the economic problem which society faces... The reason for this is that the data from which the economic calculus starts are never for the whole society given to a single mind which could work out the implications, and can never be so given. The peculiar character of the problem of a rational economic order is determined precisely by the fact that the knowledge of the circumstances of which we must make use never exists in concentrated or integrated form, but solely as the dispersed bits of incomplete and frequently contradictory knowledge which all the separate individuals possess." (The Use of Knowledge in Society)*

Calabresi said:

> *"a unitary executive eliminates conflicts in law enforcement and regulatory policy by ensuring that all of the cabinet departments and agencies that make up the federal government will execute the law in a consistent manner and in accordance with the President's wishes."*

Thomas Sowell described the problem of a central planner monitoring and supervising subordinates as:

> *"when Soviet nail factories had their output measured by weight, they tended to make big, heavy nails, even if many of these big nails sat unsold on the shelves... Because the central planners' estimates of each plant's capacity will become the basis for subsequently judging each plant manager's success, in transmitting information to the central planners Soviet managers consistently*

understate what they can do and overstate what they need. The central planners know that they are being lied to, but cannot know by how much, for that would require them to have the knowledge that is missing. One way of trying to get performance based on true potential rather than articulated transmissions is a system of graduated incentive payments for over-fulfillment of the assigned tasks. Soviet managers, in turn, are of course well aware that much higher production will lead to upward revisions of their assigned tasks, so that a prudent manager is said to over-fulfill his assignment by 5 percent, but not by 25 percent. In short, a mutual attempt at outguessing the other goes on between Soviet managers and central planners. Knowledge is not transmitted intact." (Knowledge and Decisions)

All attempts at remote supervision, are destroyed by corruption to the agendas of local actors, where differences in information allow local actors to evade and trick the attempts at monitoring by their superiors. This is solved by creating independent local decision makers, who are given discretion to act confined only by some transmitted set of rules which they are incentivized to follow. And by checks between them. So that monitors cannot hope to have enough local information to decide and judge outcomes, but only to monitor whether subordinates follow the rules, by employing various independent local institutions to check each other.

It may be that a king, in a simpler civilization where all he demands is a tax in proportion to agricultural output, to finance an army to protect the border, can discover enough information to monitor and supervise his subordinates. But simply assigning this to some magic that "the voters will figure it out" - imagining that voters can perceive everything government employees are doing and communicate optimal adjustments in their choice between two candidates - is ridiculous.

Aristotle said primitive social systems are limited in size:

> *"when of too many, though self-sufficing in all mere necessaries, as a nation may be, it is not a state, being almost incapable of constitutional government. For who can be the general of such a vast multitude, or who the herald, unless he have the voice of a Stentor? A state, then, only begins to exist when it has attained a population sufficient for a good life in the political community: it may indeed, if it somewhat exceed this number, be a greater state. But, as I was saying, there must be a limit. What should be the limit will be easily ascertained by experience. For both governors and governed have duties to perform; the special functions of a governor to command and to judge. But if the citizens of a state are to judge and to distribute offices according to merit, then they must know each other's characters; where they do not possess this knowledge, both the election to offices and the decision of lawsuits will go wrong. When the population is very large they are manifestly settled at haphazard, which clearly ought not to be. Besides, in an over-populous state foreigners and metics will readily acquire the rights of citizens, for who will find them out? Clearly then the best limit of the population of a state is the largest number which suffices for the purposes of life, and can be taken in at a single view." (Politics Book Seven)*

Individual voters somehow responding to local maladministration of government would require private institutions to monitor every aspect of government action, assembled together with culture and credibility that voters could rely on, like a religious organization. The private-sector apparatus that exists for this is some combination of political parties, universities, churches, think tanks, lobbyists, and the public square, which ultimately try to both monitor various activities of government and communicate

to voters why the philosophy of a particular candidate is superior. The impossibility of somehow consolidating and transmitting all the necessary feedback information through a single executive is evident in the failure of planned economies under unitary executives like Fidel Castro.

It is not that Cubans don't know they are starving, or that Castro wants them to starve, it is that information cannot be processed in the manner Calabresi idealizes. And the job of the government of conveying preferences to private decision makers as laws and regulations - as rules rather than monitoring outcomes - has become immensely more complicated after the industrial revolution, than it was in primitive agricultural or tribal society. It's not that a new elected dictator with bolder promises could do better in the same system. Not unless what he promised, was to dissolve his power across competing decision makers.

Calabresi's insistence that United States law requires a "unitary executive" has some basic flaws:

1) An elected President and a king do not make the same kind of decisions - the information sources and incentives measuring outcomes are different - and so no law about what a king can do has any automatic parallel in an elected President designed to be different from a king.

2) The Framers did not expect an elected President would make the same kind of decisions as a king - they did not want him to - and so did not assume every law which applied to a king would apply to a President.

3) The decision structure of a monarchy is not the best possible decision structure, and

our written laws were not an anchor to such primitive forms of society but a designed progress away from them, in a clear direction to a new model of distributed decision making.

A President makes his decisions by design, based on different information and feedback compared to a king. A king has different information sources about the quality of or preference for different actions by his agents. According to Calabresi, a President is supposed to get this information from voters. (Or at least by some method of being held accountable other than courts measuring actions against laws.) And a king has different incentives compared to an elected President. The fact that a President can't get what he wants and is interfered with and doesn't like it -- as much as a thief doesn't like law -- is the design.

So there is no reason rules useful to regulate a king, or his interaction with courts, would be useful for a President, much less legally assumed to automatically apply to a President. Particularly when we have newly designed decisions to be distributed through separation of power across independent and competing actors. A President by design has his actions regulated and limited by new and different factors, and specifically laws and courts and opposing actors.

All this intellectual malarkey was invented by the charlatans at the Federalist Society for one reason: It was believed that regulation of executives by local voters would be more virtuous than regulation by federal courts, because local voters believed in better traditional values like private property, while federal courts replaced the law with communist theories and academic fads. They believed local voters would value a better set of rights than federal courts.

But local voters and a unitary executive cannot actually enforce rights. Not without the middleman of courts and laws and numerous distributed decision-making institutions, both knowledge institutions and local information monitors and petitioners. A unitary executive cannot serve the interests of voters, but is doomed by imperfect information and control problems. Regardless of whether voters believe in private property and federal judges don't, a system where the executive is regulated as a unitary actor by voters rather than by distributed decision making using rights and courts and laws, is Marxism.

If courts and laws are bad, then they have to be fixed and reformed. You cannot replace distributed decision making with virtuous voters and central planning. A belief in the virtue and infinite information power of local voters as deciders of everything, and that this benefit can be realized through executives immune to regulation by other checks and balances such as courts, is utopian Marxism.

5. The Crowd as Decision Maker

If people sitting around talking to each other could have their way, they would run the world. Quarterbacks on TV would run the plays they think they should run. Rich people would have as much money as they think people should have. Stores would sell the products they want them to sell. And the people they think are bad would be locked in prison and removed from society.

History is a tension between people making decisions this way they want to make them, and laws forcing them not to impose their impulses on the world. And history is ultimately a story of people throwing off the shackles of law to do what they want to do, to arrange everything as they see fit (which justifies violating the rights of others).

(It is also a story between an expansion phase, and a destruction phase, with the United States currently being in the second. In the first phase people are infected with law like cells infected with cancer, and society multiplies. In the second phase people return to their original tendencies to attack each other, and society contracts. Though in reality, societies muddle through a series of cross-currents most of the time.)

Telling a business owner what to do with your own interest in mind, will always get a better result for you than leaving him to do what he wants. And telling a business owner to do something that is moral, is more moral than letting him pursue profit. Surely a decision made by you in your own interest will be more moral than the decision a businessman makes who doesn't care about you. Particularly when you are dissatisfied with the current results.

In this light, taking control of the businessman's property by telling him how to use it in service of some interest - in effect seizing his property - seems not just rationally justified but moral. While the law you are breaking, the abstract moral of "the free market", seems immoral. You are substituting the better decision for the worse one, the correct one for the incorrect one, as seen from your vantage point. It is always easy to justify telling a business owner what to do. From the vantage point of you and whomever you are arguing with in the public square, the decision based on the information you both have, will be different from the decision the businessman makes based on the information he has at his own vantage point.

Something as silly as torturing suspected criminals to confess, and to lie about each other in court, may seem more obviously ridiculous than telling businesses what to do. The person doesn't confess because he did the crime; he only tells you what he thinks you want to hear to get the torture to stop. But coercing false confessions has been as

common throughout history as telling businesses what to do. Even among rational and moral people, and even in civilizations that have courts and trials specifically designed to instead obtain actual facts. Testimony that is faked, is used in the United States today as a standard process without objection.

This is because when you already know someone is guilty, based on the information you have, torturing him to confess produces accurate information. It gets the correct result - the result you approve of - from your vantage point. It results in the correct moral outcome. This is not that different from telling banks they have to ignore people's credit scores to loan them money, to obtain social justice. You force the jury or the bankers to use false information, to hack the rules of the process to get the correct result. Therefore torturing someone to confess is rational, because it gets the correct result. Whereas following the law to let the jury or bankers decide, may produce the incorrect result.

Coerced confessions are selected to be used only in those particular situations when it gets the correct result, or the result the public approves of, because the public has no reason to doubt the person so convicted is guilty. But this is common throughout history for a simple reason: When you believe someone is guilty of a crime, getting someone to confess to what you believe, to achieve the result you think is right, does not seem like a flawed process. If you believe the person did the crime, then he confessed the truth, and torturing him worked and is therefore rational and efficient.

The person doing the torture knows it is a lie, a scam, as much as any witch-pricker does. But the public ultimately makes the decision, and will replace any elected official who doesn't coerce lies with someone who does, to reliably manufacture the outcomes the public approves of.

This same approach can be used in almost every human endeavor, to justify breaking every law to do what you want to do, and get the outcome you want, while imagining what you are doing is rational and moral. It seems not just rational but moral to usurp the decisions of others to get the correct outcome, even if that means keeping up appearances you are letting them decide, while feeding them lies to make sure you get the right decision. Like telling your girlfriend you are going job hunting, and then driving to the pub, while pretending she is deciding what her car is used for.

Substituting your own decision using the information you have, for the legally designed decision maker, always seems to produce a better result from your vantage point. Measuring the decisions of others using your own information by definition makes their decisions appear inferior to the decision you would make. If you know a criminal is guilty, then not using a coerced confession, and instead going through a drawn-out court process that might result in him being found not guilty, is not just irrational but immoral.

If you tell a voter "the witnesses lied at trial", the voter will respond "Tell me what happened in this case, so I can see for myself if the defendant was guilty or not." This is of course an impossible task, a dead end. In this manner laws are cast off and courts are corrupted in ways that seem brazenly crooked and evil, if not just plain silly. Except that they are employed to serve the whims of the casually observing crowd, manipulated by demagogues. And they only get things wrong in areas that people don't care about and aren't looking at, which can be the majority of the time.

When Madison wrote the Fifth Amendment, even he was so fearful of the will of the King and the public mob and insulting their virtue, that he wrote the obtuse euphemism "witness against himself", rather than "coerced to lie". Thus sort of implying it is the suspect's own choice and beliefs, not torture making him say what the public believes.

Not daring to say that coercing lies is what lawyers and magistrates do.

Judges will ignore and break every law as convenient, so long as the problem with the outcome is not visible to you, and so long as whatever brazenly silly thing the judge did can be justified to the extent you agree with the outcome. So unless a defendant can prove his innocence to you as voter (or to a random voter who knows little about courts and laws much less the specific areas of the case such as ballistics or prostitution), then any problem with using a coerced confession to wrongfully convict him is invisible to you.

And if you happen to notice an error (like a wrongful conviction), elected officials will say this is an unfortunate mistake made by those other people in the past, who were not as wise and virtuous as we are. We have taken steps to fix this, and we now have a better process. And now that you can see their error, we will do the right thing as always and repair it. Or if 51% of people think it is not an error, then the error stands. The outcome is at all times tailored to the political process. We will pay doctors to work in your area or pass a law forcing them to, forgive mortgage loans, and put this person in prison and release this other one, until the majority of voters are happy.

People in the United States who read this may be surprised to learn (and incredulous to believe) that false confessions - and brazen lies - are regularly used to convict the innocent in your area to this day. Just as you would not be able to directly see if some law you are unaware of, such as capping the maximum amount doctors are allowed to charge for an office visit, was causing a shortage of doctors in your neighborhood. You know there is supposed to be some institution to stop this - to stop lying to convict the innocent or stop healthcare shortages - but that institution is you. And your solution would be the government telling doctors what to do by hiring them to work in your

neighborhood.

Your solution in criminal justice might also be the wrong one, letting prosecutors and judges select which witnesses are telling the truth, or even voting for good prosecutors who promise to only use coerced confessions to convict the guilty. Or who only convict the people you think are guilty. So you haven't fixed the process, you have simply moved deciding or approving the outcome to you, and in fact made the process even worse. And your efforts to get prosecutors to do the right thing - to get them to only convict the people you think are guilty - is the problem, not the solution.

You might say "voters wouldn't let prosecutors convict the innocent over and over", but this is the mirage. Voters do not independently know who is innocent or guilty, to know if prosecutors are doing a good job. Voters don't know all the evidence in even one case, much less in most cases. Not any more than they can tell you whether one farmer made the right decision to plant corn or soy, or one banker made the right decision approving a loan.

Even if a voter wanted to get all the information about a criminal case, elected officials throw up every roadblock. And courts immunize every news story full of glorifying falsehoods about the conduct of government against defamation, while defaming the targets of government as undesirables. Even if a private party got all the information in a criminal case, he would still risk getting sued for publishing anything other than the state's narrative. A lawyer would additionally risk damaging his relationships in the legal community, and going bankrupt, for telling the truth. And it is just as easy to spread false gossip as true information, when the decision maker is the crowd. Even easier when courts favor the government-selected version.

Meanwhile, government officials will use all their power to convince you their criminal-justice work is great, just as they will convince you greedy bankers are cheating you. Literally no voters (or even lawyers) demand prosecutors follow the rules, only that they convict and release the people voters think are guilty or innocent. Defense lawyers also benefit by the social collective deciding who is guilty or innocent and then lying to fix the outcome, since arranged testimony agreements save them having to go to trial. Lawyers get a financial reward for talking their clients out of the right to a jury trial, and for producing false testimony where their clients lie to obtain popular court outcomes.

Letting decision-makers break the law so long as it gets the outcome you want the 5% of the time when you are looking, also lets them break the law the 95% of the time when you aren't looking. And they will break the law everywhere you are not looking, for reasons so simple as it lets them leave work early that day. The economy in the USSR operated in this way, with everybody breaking the rules and producing total garbage in every spot not in the direct spotlight; every day the supreme leader was not visiting the factory. Courts in the United States operates in this way, with lies in every area you can't see, or every area that can be obscured from your view, and every day and every place and moment the TV cameras are not looking.

Judges ignore the law as politically convenient, whether to obtain the politically convenient outcome, or simply because they know nobody is looking, and it saves their resources for the times when people are looking and the cases and outcomes the public cares about. Resources are rationed for the moment of theater.

This is how the whole Soviet economy worked. But criminal justice is even worse. Because people who lack food know they are starving. Politicians can only get so far saying "you are not starving, our new economic plan is working". But people only know

whether the guilty or innocent have been locked up, based on what they have been told by the people who have promised to solve the problem. It is almost costless in the short term, to lock up or free whomever the majority wants locked up or freed, to pander to whatever impulses or prejudices a particular official needs to, to make himself look virtuous and make competitors look error-prone, to get elected.

You begin to see that something which seems so simple and obvious - giving voters a final say to approve the results of government action (and forcing government actors to ignore the law and instead focus on whether the right outcome is obtained) - substitutes a collective process for the process intended by law, and creates intractable problems plagued by corruption. No matter how many Youtube videos people watch, voters cannot micro-manage either economic or judicial actors. And voters letting decision makers break the law -- to get the outcome voters want when the voters are looking -- is used the 95% of the time the voters aren't looking, to get the outcome most convenient to the personal agenda of decision maker.

If banks can ignore credit scores to obtain social justice when you are looking, then they can ignore credit scores to lend to their friends the 95% of the time you aren't looking. This is what happens when voters decide to monitor outcomes, rather than demand independent decision makers follow rules, or let them be governed by the price system and profit motive.

This is basically what happens in every totalitarian society. The people give power to someone whom they think will execute their will, based on the knowledge and information known generally to the collective of voters, based on the glaring problems visible to the public. This problem used to be widely recognized in economics, though not as much recently, as memories of the great economic debates of the 20th century

fade. And these principles are cast off any time new mass communications paradigms give temporary life to new populist movements; when people go out in the street or on the radio or the Internet, and tell each other it is moral to tell businesses what to do.

This problem has been widely recognized in industrial production, but has never been recognized in criminal justice, where the problem is even greater. The crowd has an even greater impulse to torture witches than to seize the land of farmers, and there is no price system to do the work spontaneously. And the principles of due process do not have defenders among academic economists, like the price system.

6. The Collective is Also Wrong About Outcomes

People's instincts don't just misguide them as to how outcomes should be decided, but what those outcomes should be. Their instincts misguide them what the public benefit is, of various outcomes harming their neighbors. They imagine harming strangers doesn't cost them anything, and the benefit of "cleansing society" is larger than it actually is. They feel compelled to harm strangers (particularly pretty young girls), they rather enjoy it. This is quite different from publicly admitting they do. Moral people might repress such impulses, but this reverses when they have public approval to indulge them.

Imagine an ice-age environment where large mammals are being hunted to extinction. All competing tribes are a threat to your survival. Strangers are guilty of causing your starvation just for existing. So people have an instinct to turn off their empathy and kill strangers. White people who live in densely populated areas have an instinct to stop having children and start culling, and are easily incited to war based on selfless moral principles.

Suppose there are two clans of 100 people each, 200 people total, and the land can only

feed 50 people. It is better that 50 members of your clan should die killing all 100 members of the competing clan, with the result that 50 members of your clan get all the food and survive. Rather than 75 members each from both clans sit around and starve, leaving only 25 members of your own clan. Young men are so programmed to take risks and die selflessly.

If you are going to starve anyway, dying in war has no cost. But it has the benefit that the few survivors may be from your clan rather than competitors. When people are capable of producing more offspring than the land can support, and with no other natural predators, the job of culling men falls to other men. In primitive society, natural selection favors those who are easily turned into childless workers, soldiers, and blind killing machines against their neighbors. (Beauty is not an indication of genetic fitness, but an arbitrary force to reduce reproduction and animate people into conflict.)

Our ancestors crossed the ocean in wooden boats to a land of savages, and wrote a new system of laws, to protect themselves and their property from other white people. That protection having been achieved, they then cooperated with those other white people to create enormous wealth.

In today's societies with trade and specialization and invention (distributed parallel information processing), strangers are a benefit rather than competitors for food. The more strangers there are, the better off you are (see Julian Simon's "The Ultimate Resource"). You logically should want strangers to have private property, because they are employed for your benefit as distributed decision makers. (U.S. law currently only recognizes strangers as a benefit to you as political speakers, or maybe as members of your religion.) Therefore individual rights and the public benefit coincide; you have a selfish interest that the baker's property is protected, and that he is not locked in prison

or drawn into unproductive conflict.

But even today in a society of trade and no starvation, people are still inclined to hallucinate that strangers are a problem. They will indulge their natural impulses to harm you while imagining they are being moral and improving the world. People have trouble telling the difference between their own primitive impulses and morals, and will be consumed with their own moral superiority at the same time as being disastrously wrong. Wars are started by those who go on to lose them.

People want courts that protect everyone's rights, for the obvious selfish reason they want their own rights protected. But most people don't mind others being tortured if it doesn't happen to them. They see grouping into factions and social processes and political power, rather than courts and law, as the way to have it happen to others and not to them. They never guess that harming the minority faction, or cops not following supervision in the form of laws, hurts them also.

Courts and laws substitute for and mitigate human nature to protect us from each other; from Madison's "stronger faction", and from Hamilton's "major voice of the community". We have courts not just because social processes produce bad results, but because individual preferences want bad results. Courts protect people not just from the lynch mob, but because even perfectly informed people will want to kill the innocent.

Individual rights are your rights against stronger people and lynch mobs attacking you and taking your property, not just as savages or criminals, but in the political process (like animals in the wild as James Madison said in Federalist 51). Courts exist to obtain a different outcome from social processes, to protect individuals from the majority, not to provide the public with the same outcomes the majority would get without courts (and

the same outcomes they would want even with perfect information on guilt).

Courts and laws are supposed to force people to act as trading partners, instead of war and killing strangers every day (particularly middlemen who transmit information to optimize production). And they are supposed to substitute for and protect against human instincts in social processes which manifest in war and aggression. But voters don't think about distributed decision making and economics, they think about war and justice, and their neighbors owning things they hunger for. The collective decision makers - the overseers in a democracy - not only lack information, but they lack the sense of what the punishment should be based on that information, when it comes to strangers.

Because people's instincts also misguide them what the public benefit is - what court outcomes and punishments benefit the public - is why they need to follow the law, and let the law dictate outcomes. The public value of different outcomes is supposed to be conveyed to the decision maker through the laws. So people have to follow law, rather than their own impulses which are to go to war to prevent starvation, rather than being impulses to protect the rights of strangers to prevent starvation.

Therefore decisions have to be made through stiff legal processes, rather than spontaneous social processes or even voting majorities. And the outcomes necessary for a civilization to survive may even be disapproved by the majority, such as for not punishing enough criminals or Jewish people.

7. Court Outcomes Subservient to Social Consensus

When I say "courts are a scam", you probably expect I am going to say courts are a scam, because they don't serve the people by doing what the people want. I am going to say the exact opposite. Courts are a scam because they do what the people want, and the

people are a terrible decision maker. The people stick their hands into everything and ruin it, or let corruption run wild everywhere they are not looking.

It's popular to say communism doesn't work. Communist governments can't invent new products or even feed everyone. And no matter how many times you vote that they should make more food or housing or whatever, at the end of it there is bad housing or a housing shortage. So the idea goes that individual businessmen, out of greed, will make their own decisions to build housing. We have to leave it to "the free market" to figure out how to supply housing. But for some reason, Supreme Court justices like Antonin Scalia think decisions in the justice system will have beneficial outcomes not because private adversarial actors follow rules, but because the collective consciously wants to get the right outcome. (And the well-meaning collective will therefore turn the decision over to a room full of aloof idiots, in this case not businessmen, but jurors.)

The general error people make, is a perception that there is a second, free, infinite layer of decision making, that can review every other decision in the world, and make sure it is being made correctly. This the belief that by giving people vast powers of discretion, rather than constraining their discretion, they will use their infinite conscious wisdom and benevolent human nature, to make sure jury trials are getting the right outcome.

An example of this mirage of misguided thinking can be found in the Scalia's opinion in Kansas v. Marsh:

> *"Even if the innocence claims made in this study were true, all except (perhaps) the 1984 example would cast no light upon the functioning of our current system of capital adjudication. The legal community's general attitude toward criminal defendants, the legal protections States afford, the constitutional guarantees this Court enforces, and the scope of federal habeas*

review are all vastly different from what they were in 1961. So are the scientific means of establishing guilt, and hence innocence — which are now so striking in their operation and effect that they are the subject of more than one popular TV series. (One of these new means, of course, is DNA testing — which the dissent seems to think is primarily a way to identify defendants erroneously convicted, rather than a highly effective way to avoid conviction of the innocent.)"

Guilt is supposed to be decided by the jury. But according to Scalia, this is dependent on "the legal community's attitude toward criminal defendants". So if the legal community wants to convict the innocent, juries will convict the innocent. If the legal community wants to only convict the guilty, juries will only convict the guilty. So Scalia imagines juries work because there is this second layer of oversight - "the legal community" - making sure juries do the right thing and make the right decisions, through some unspecified process of influence. Not just making sure juries have all the information. But actually overseeing the process to make sure the right outcome is achieved, like managing industry to make sure there is enough bread.

Government officials in Cuba presumably have the same attitudes towards people not starving, and the same science to grow food, as people in the United States. But neither conscious intentions nor science produce good results, when decisions are made collectively after assuming the wisdom and good intentions of overseers. The United States justice system was designed to accommodate that people and the government are evil liars. And hand the decision over to individual juries not because they are the smartest, but because they are the least corrupted to decide based on some agenda other than law.

Any individual decision that is dependent on the good will and wisdom of the collective to let that individual decision be made correctly, will fail. When a decision is dependent on the good will and wisdom of the overseeing body to intervene or not intervene, the decision is subservient to, and therefore made and approved by, the collective. The decision is made by the person whose good will and wisdom is depended on, not by the process he oversees to make sure the rules are followed. In criminal justice, that "benevolent" influence is usually achieved by governing what evidence is admitted at trial, and impeached or accepted as true.

People who have a positive attitude toward criminal defendants, rather than toward the law, will free the guilty, not produce all information and let the jury decide. What they really need, is a positive attitude toward giving the decision to the jury, and prosecuting cops who lie to try to hack the decision. But this is the same Scalia who thinks a judge should allow the jury to see evidence obtained illegally, because the judge knows the defendant is guilty ("the criminal... dead to rights" at Pepperdine talk). The illegal evidence is necessary to make sure the jury reaches the same conclusion the overseer already knows. That is how Scalia's "attitude" works, not to use due process, but to fix outcomes to what someone other than the jury knows is right.

At the same time, every one one of these things which supposedly make it possible to accurately determine guilt could be removed -- the general attitude -- and Scalia would not call it a denial of due process. In Hudson v. Michigan, Scalia says courts don't need to enforce the Fourth Amendment, because internal affairs and citizen review and the extant factors of local politics and the rational behavior of police protect rights. But remove citizen review, prove internal affairs lets cops lie when it is politically convenient, prove that cops who lie don't get fired, and show that Florida uses defamation law to censor private speech about police activity. No federal judge would

then say you have been denied due process, or compel the state to correct these things.

Scalia also mentions the science of DNA solving a large part of the problem. As if all we need is the scientific knowledge of how to bake bread, and everyone will be fed.

Never mind that DNA is the least reliable evidence, and the easiest evidence to fake to fix a political problem. Because it is invisible and is not corroborated with a physical object like a bullet or a fingerprint tape. So it is the easiest to lie about where and when it was obtained and what the scientific result was. And because testing of DNA swabs is rationed selectively and results are introduced last in the process after all the other evidence is known, DNA results can be contrived to fix up late holes in a case, to prove whoever you want is guilty like a witch-pricker. And it is the hardest to prove years later in habeas, that a CSI lied about where she got a swab (or that it was "accidentally" mislabeled).

So again, DNA will produce terrible decisions, if the person using it is supervised to reach the outcome preferred by the overseer or the public. In other words, if the correct outcome is decided above the CSI, the CSI is then rewarded or penalized depending on whether her work produces the outcome preferred by the overseers, not based on whether she followed the rules to produce information, so that the jury could decide the outcome.

Throughout his opinions (e.g. "extant forces" in Hudson v. Michigan), Scalia imagines there is some political mechanism making sure CSI's don't lie about where they got DNA swabs or their results. Just like in the Soviet Union, there were higher managers making sure factory managers didn't lie about their production capacity, to create the impression they were doing a great job. So in the mirage in Scalia's mind, there is this

infinite layer of managers, that ultimately comes back to "the people" deciding what is good and making sure everyone does what they should do, to achieve the good result. (Hamilton's "the people" was a minority of philosophical plantation owners, and did not include peasants or slaves. Rome's "the people" was more like a senate picking administrators, and the dictator was not chosen by universal suffrage.)

So it is not the jury which decides guilt, but the local political process which rewards or penalizes CSI's. And not for lying or telling the truth, but for whether the evidence they produce, results in the "right" decision of guilt as externally decided by the infinite time and wisdom of the political process. In Scalia's mind, jury trials work not because jurors are independent and provided with information when prosecutors are penalized for breaking the rules, but because layers of overseers have perfect information and infinite time, and can double-check that the jury got it right.

In reality voters will never sit a day in court or look at the evidence in any criminal case. They will reward the CSI for lying to convict whomever the local papers have been immunized to say is guilty (immunized against defamation lawsuits, to tell the public that anyone police point the finger at is guilty). So if it depends on the voters, or on the attitudes of CSI's or The Bar association, the innocent will be convicted. Just like factory managers in the USSR provided fake statistics to the central planners. Because the second layer of decision makers is totally uninformed, and easily tricked about the details of specific cases.

You don't even need DNA to protect the innocent like Scalia suggested, if you are not already hiding from the jury that state witnesses are less reliable than presented, and hiding that you don't really know who committed the crime. DNA protects the innocent, only to the extent its actual reliability has less of a gap compared to the fake reliability

presented to the jury. But the opposite is true, DNA is even easier to use to convict the innocent than jailhouse confession witnesses, by just waiting until late in the case and then lying about where you got a swab. But that is what the good will of the overseers does, they make sure state witnesses are presented to jurors as more reliable than they actually are, to make sure they get the right outcome which the good people want.

Maybe if Scalia said popular attitudes toward juries improved, or popular attitudes toward following the rules so that they created an institution with a mandate and incentives to punish perjury -- checks and balances to confine discretion -- that would be different. But Scalia is fine with the idea that they are only going to give a criminal defendant a fair trial if they like him. Scalia can't honestly say that is going to apply to every criminal defendant. There are always going to be defendants the voters don't like. In that case, Scalia's logic says they are not going to give him a fair trial, they are going to railroad him. (Scalia often promotes utopian assumptions, like saying every cop is professional and career-minded, which crazy assertions are only accepted to the extent all this is not logic but political propaganda.)

In essence Scalia said "local lawyers decide if a particular person deserves a fair trial, and if the lawyers decide he does, then the lawyers make sure they get the right outcome, which still does not necessarily mean letting the jury decide". There is a similar sentiment in U.S. v. Bernal-Obeso, that "we have chosen to rely on the integrity of government agents and prosecutors not to introduce untrustworthy evidence into the system". That it is a social collective or a corrupt individual, pre-determining the decision made by the jury, while pretending it is in the jury's hands.

Scalia also mentions habeas review. This is a second layer of decision making, where people who are able to prove their innocence with hard evidence, and who are

competent enough or are popular enough to have a public interest to provide lawyers to do this, have this second layer of decision making, to make sure the jury got it right.

The reality is the jury is the only chance to avoid being wrongfully convicted. If the jury trial does not provide due process, very few people will be rich or competent or politically popular enough, much less have the evidence, to prove innocence. There are not even enough court resources to have a jury trial for 1% of people arrested; almost all cases are settled with a socially-acceptable outcome using plea bargains. But Scalia imagines there is this second free infinite layer of decision making, where wrongfully convicted people can prove their innocence outside the jury. The reality is that the political process freeing the wrongfully convicted, leaves most people starved of justice (as much as does the political process making sure juries make the right decisions in the first place).

Scalia said if we ever executed an innocent person, "the innocent's name would be shouted from the rooftops" by some imaginary collective of overseers that knows who is guilty and innocent (Kansas v. Marsh). This again assumes that there is some set of political activists who know all the information about every case, since there are infinite layers of such free decision makers with perfect information to oversee the other decision makers. In reality there is only one chance to bring all the information together for each case, the jury trial. Most cases cannot even afford that one time. And political activists will never have that information, but popular gossip. It is because we can't know who is guilty better than the jury trial, and we know the jury trial itself is corrupted with puffed-up lies, that we can scientifically infer that many innocent people were executed and we can never know which ones. It is because the process sucks and is filled with lies, not because some collective knows everything and people listen to them, that we can say the innocent were executed.

The reason the innocent are in prison is because activists can never know who they are. Not any more than central planners can know true factory output in the USSR, when the factory managers control the data and have every incentive to mislead their overseers (or corrupt them with quid pro quos). Activists cannot realistically expect to prove innocence (except by DNA or pure political gossip), and can only discover and prove who did not receive due process, which is a large percentage of convicts.

Scalia can always show how the gossip of any crowd is wrong, that is a straw man. Scalia says that is why we need to use the gossip of a different crowd, when what this really means is collective decisions are bad (including his "extant factors" in Hudson v. Michigan). Scalia contradicts himself, saying the innocence activists are always wrong, while at the same time imagining it is possible for some other set of more virtuous overseers to actually be right about who is guilty or innocent. E.g. local voters who excuse the local prosecutor for not prosecuting perjury. Scalia says one collective is less virtuous and wise, the other more virtuous and wise. The truth is information is imperfect, and all collective decisions are inefficient, whether voters or innocence activists.

If some cop or witness lies to arrest you for something you had nothing to do with, not even you will have any idea what really happened in your own case. Even if you had $1 million to spend on advertising, you would not be able to explain to the public what really happened, or how and why you came to be falsely accused. You would be limited to saying "The witness says he saw me run out of the gas station, but I know I was at home." What you need to say is "Witnesses are encouraged to lie to obtain politically convenient outcomes, with no risk of penalty." To which the average voter would respond "Can you prove you were at home? Even so, police have good will, and you are

just some criminal with an incentive to lie, so I believe the state witnesses."

Scalia thinks Christian religion, not law or process, fixes human nature not just in commerce, but also in criminal justice. All that is needed is an attitude that government officials want everyone fed, and they will oversee that bakers bake enough bread for everyone. Like maybe Kim Jong Un will have a change of heart one day that everyone in North Korea should have a nice house, and so he will oversee the nation's builders to make sure it happens.

Scalia imagines that if the system gives lawyers this unchecked freedom to decide whether to do good or evil, they will choose to do good, and this will result in correct outcomes. Like businessmen who are not regulated by prices or laws, but who are altruistic. But as an average nobody, you will be more likely to have a bird land on you, than for any institution to actually spend the time necessary to figure out what really happened in your case.

Like communism, the idea is that the success of the decision maker is dependent on the attitude - the good intentions - of the overseer monitoring his work. So that the overseer can make sure the decision makers are doing the right thing, by using their own knowledge of what that right thing is. According to this line of thinking, people starving is from a lack of want to feed them, by the overseers monitoring the businessmen. But if voters instead have the attitude that people should not go hungry, then they will vote for good government overseers, who make sure factories make the right decisions to feed everyone.

You are not an independent decision maker if the state selects the outcome of a decision, by selecting who makes the decision in each case. This is not just clever word games,

the state fakes evidence every day against unpopular people. Usually by elected officials selecting what evidence is allowed and believed, to fix the outcome while carrying on the appearance the jury is deciding.

The only chance to make a good decision, is adding another independent institution (i.e. checks and balances) aggressively investigating and prosecuting CSI's who lie to the jury (or anyone who rewards instead of penalizes lies). Even when that lie obtained the politically popular outcome. Or by telling the jury the reality that CSI's (and state witnesses in general) face a reward and no penalty for faking evidence. The monitor doesn't monitor the decision, but oversees whether the prosecutor and CSI followed the rules (by conveying accurate rules and information to the jury).

No other secondary decision maker, can substitute for the jury being fully informed. The more layers of secondary decision makers you add monitoring the decisions of first decision maker, the worse decisions you get. Secondary decision makers who monitor whether primary decision makers made the right decision, rather than whether primary decision makers followed the rules, result in terrible decisions made by politics and the madness of the crowd agitated and manipulated by demagogues, like with communism.

II. HISTORY AND DEMOCRACY VERSUS DISTRIBUTED DECISION MAKING

8. Interpreting Law as Distributed Decision Making

There is no way to get around arguing what due process means, or what the purpose of courts is. And nor can it all be constructed by looking at common law. Due process is the more evolved genetic code of a more advanced animal. Courts cannot erase various parts of the Bill of Rights, or interpret them down to nothing or something politically

convenient based on prejudices for executive discretion, based on not knowing what they mean. And nor is there any settled super-precedent defining and limiting due process. A discussion of what due process is, is inescapable not immaterial.

It seems obvious that the executive branch being able to decide court outcomes by just having the law applied to lies is a violation of due process. A separate department prosecuting perjury in proportion as it happens not in proportion as the public demands, is necessary to have decisions made by the jury. Rather than by whoever decides whether to prosecute perjury, and what statements to reward and prosecute. Put simply, it seems that the State being able to encourage lies in court by rewarding rather than prosecuting perjury, while prohibiting the finder of fact from weighing witness reliability in light of this (while not curing the bias of jurors to imagine state witnesses caught lying would be punished), is a violation of due process.

But some judge will say the Constitution doesn't say "there needs to be an independent department to prosecute perjury" or "jurors must be cured of bias about whether perjury is deterred or rewarded". Both these processes "move power away from the executive branch", but due process doesn't specifically call for that. Beyond simply having 12 people present as jurors, there is nothing explicitly written that makes your rights so expansive, that prosecutors can't walk right around those 12 people by lying. So we need something external to look at to fill in the blanks of what due process is.

Absent such a logical model,judges will instead look to history or democracy as simple or guiding logical principles to fill in the blanks of what law means, including due process. Some judge will argue "The Constitution doesn't say what due process is, so it must be something that happened at some point in history that you can point to." Judges are rarely blamed for saying history or democracy informed a decision.

Neither history where the king can do whatever he wants, nor democracy where the majority can do whatever they want, need written laws and juries to function. They need edicts and administrators, a politburo and local factory managers. When a civilization gets too big, local information needs to be brought in. It requires a new process where local subdivisions produce information, and measure it against remote edicts which are designed to conserve society against the eternally flawed and evil nature of man.

Law is not the idea that you should be punished for wrongdoing, and did not introduce this concept. Law is simply a communications system for disseminating established preferences to distributed decision makers without prices, who then measure those preferences against local information. Due process is the economic paradigm of distributed decision making, applied to criminal justice.

9. Distributed Decision Processes and Institutions in Criminal Justice

Processing as much information as possible to make decisions that benefit society, is done using distributed decisions made by independent local specialist decision makers. The more things are decided by a single social collective, the fewer decisions can be made, the less information and expertise they will use in each decision, and the worse the decisions will be. It is not efficient to vote in the town square on every decision, from what factories should make to who is guilty of crimes, or to have a single executive decide all these things.

The general properties of a distributed decision maker is one that brings together:
1) knowledge of a domain, e.g. farming,
2) information the knowledge is applied to, e.g. the precipitation in a certain tract of land,

3) incentives and constraints that convey public costs and benefits to decision makers, such as the price system or established preferences recorded in laws, and
4) other independent decision makers who monitor whether each other are breaking the rules, with local processes to create penalties for breaking the rules.
(I first published this list in USCA11 24-10583 ECF 22 page 5.)

By giving only a small part of each decision to each decision maker, no decision maker holds power to choose the outcome of his activity for his own benefit or agenda at the expense of others. Rather the rules and the information determine the outcome. The point is to determine the best combination of person A and person B doing things that help each other. A farmer is forced to choose whether to plant corn or wheat based on the market price of corn and wheat, and the cost of producing each. The farmer cannot choose what people eat, and nor can people choose to eat corn if it is too expensive to grow. A judge cannot decide what the law is, a cop cannot determine if someone is guilty. No central planner can attempt to sort everything.

The problem with courts, is you cannot turn deciding who is guilty over to the price system and "the free market", to create independent decision makers informed of the public good through prices. You have to make the decision using some combination of voters and government employees. That is where judges and juries come in, which are supposed to function like independent businessmen, making private decisions which nobody else will ever have the information to know if they were right. The purpose of "due process" is to manufacture such an incentivized and informed private decision maker without the price system, replacing prices with rules and laws. The purpose of courts and juries is to create such independent decision makers incentivized by laws and penalties instead of prices.

For jury trials, the judge brings the domain expertise by instructing the jury. The decision-specific information is provided to the jury by the prosecution and defense (needing separate institutions to make sure they don't lie), and the public benefit is conveyed to the jury in the rules of the laws themselves, rather than by prices. And the interest of the prosecutor to convict the innocent for votes, or of the public to decide who is guilty based on gossip - the human impulse for the collective to decide - is removed, by handing the decision on guilt over to this independent decision maker. Similar to how requiring two different people turn a key, and a remote person provide a code, filters local impulses out of the decision to launch nuclear missiles.

Extending the metaphor, a cop who imagines probable cause of a crime is like someone with a business idea he thinks people will like. The cop's decision of whether some action is harmful to society is initially informed by law, similar to how he would be informed whether his business idea is a good one, by his relatives when he asks them for money to start his business. When the cop has a little revenue and applies for a bank loan to expand his business, that is like going before a judge to see if you can hold the accused criminal or the judge may dismiss the case. Or the cop may lie on the loan application, consumed with his own agenda. Finally jurors decide guilt the way customers decide the success of a business. Or you can commit a fraud like Bernie Madoff or a snake oil salesman, telling the customers you are giving them a benefit when they are actually being harmed.

A decision made by an elaborate process with a jury rather than a cop deciding alone, may not seem like an efficient decision process, when it costs a lot to hold a trial. But it is cheaper than providing all the same information to every voter, and having every voter decide every case, which they want to do and then exercise their influence over the cop. The voters don't want the cop to exercise his own values or agenda, but theirs. Rather

than the cop transmitting the case-specific information to the voter in every case, the voters design one law or rule and transmit the law to the cop and court.

The voters would like to tell the cop what they want, and monitor what he is doing directly in each case, like direct democracy. But as a practical matter, law is the only way to convey preferences to the cop, and due process the only way to monitor and know whether he is serving them. Jurors are immunized against politics to do what the law says. But this is corrupted when cops are immunized against courts to do whatever is locally most politically convenient, while putting on a fake show for voters.

Rights are the authority to dispose of one's property. The purpose of law and rights is to create independent decision makers with authority to dispose of property. Societies with rights are selected for survival because they create distributed decision makers, maximizing the productive power of the human mind. So the purpose of law is to convey social benefits to independent decision makers, by empowering them only to follow or enforce the law, and incentivizing them with penalties for violating the law. The purpose of courts is to protect distributed decision makers against collective decision makers and collective decisions, by protecting rights.

The purpose of courts and jurors is to limit the power of government employees to only enforcing the law, to have outcomes decided by law not collective will. This uses the basic properties that jurors are provided all information (and are cured of biases and preconceptions), are independent, and that they follow the law. This strips away the corruptibility and political incentives of government officials, to make court outcomes as close as possible to a measurement of fact against law. This strips away or filters out the low quality of collective decisions.

So the purpose of due process, is whatever process is due within this paradigm, to produce fact reliably and measure it against law. And the purpose of measuring fact against law is to convey the benefit to society to the distributed decision maker through law. And the general purpose of monitoring and oversight is not to tell local decision makers what to do or make the decisions for them, but to make sure decision makers follow the rules for how they make their decisions. So that the rules not the decisions are monitored by the collective. And people who commit fraud are deterred with punishment.

Checks and balances, and various forms of oversight and governance, provide a limited form of competition, where different departments make sure other departments are following the rules to reach their decisions (deter breaking the rules with occasional severe punishments). Even though decision makers at a second vantage point can never have the resources to double-check whether every decision was right.

According this model, a process is due to make sure the prosecutor cannot produce fact and determine guilt or hold too much power in a single department. And a process is due to make sure the jury decision is not made by the decision of the prosecutor to reward or prosecute perjury (and hiding this from the jury), which decision is influenced by politics. Because when the prosecutor can choose not to prosecute perjury as is politically convenient -- can select which narrative to encourage witnesses to tell versus prosecute them for telling -- politics dictates the outcome made by the intended decision maker (rather than politics just dictating the rules to convey political preferences to decision makers).

So a system for separating the power to investigate and prosecute perjury (to filter it out from the political incentives of the prosecutor), and for instructing the jury about the

biases of this system that encourages testimony, is part of the process due to create independent decision makers comparing information to the public benefit. To make sure the jury rather than the collective or voting majority decides guilt. A separate department to investigate and prosecute perjury is part of due process -- separate from the prosecutor who benefit politically from lies -- is part of the process due to reliably measure fact against law. As necessary to create distributed decision makers to whom the interests of the public are conveyed as incentives by law not politics.

The right to such an institution and process to deter and mitigate state-witness perjury is grounded neither in history nor democracy, but in the evolution of society away from both, and towards distributed decision making. It is within the jurisdiction of federal courts to examine whether state decision makers are doing this activity of measuring law against fact, or are concentrating power in executive-branch employees, to make decisions influenced directly by the political collective, rather than indirectly through law. So it is within the jurisdiction of federal courts to supervise and compel whether there are adequate state institutions to investigate and produce information about and prosecute and deter perjury. And to compel the finder of fact to consider the reliability of state witnesses in light of this process.

10. Substituting the "Second Vantage Point Mirage" for Due Process

The "second vantage point mirage" is the idea that there is some second vantage point where the correct decision can be known, and the goal of the actual decision maker is to arrive at this same decision which we know is correct. Motivated by this mirage, know-it-all voters subvert rather than demand due process in courts, the same as they do in business. Voters would prefer to get rid of the actual decision maker relative to which they are the second vantage point, and instead somehow have a single vantage point, their own.

The second vantage point mirage implicitly assumes that there is some infinite repository of decision-making capacity which can have all the information, to do as well as and second-guess every decision made by the actual decision makers. Rather than the remote vantage point just being used to monitor whether the actual decision makers are following the rules, to deter them with punishment when they are caught violating the rules, and to adjust the rules based on an examination of outcomes.

The general error people make, is a perception that there is a second, free, infinite layer of decision making, that can review every other decision in the world, and make sure it is being made correctly. And if those decisions are unsatisfactory, voters can choose to bypass the rules of who makes decisions - legislators, jurors, business owners, whoever - to instead obtain the outcome known to be correct at the second vantage point. So that voters can look at what factories are making bread, can examine which medicines are safe, can see why housing is so expensive, and can then vote to build houses here, bake bread there, and use one medicine while avoiding another.

So if I see people are hungry, I can know that the correct decision for the baker is to bake bread and give it to them. And if I see someone on death row is innocent, the job of the court or government is to produce this same decision I have discovered using my same information, and let him out. This implies a world where businesses can decide how much bread to bake, courts can decide who to convict, and then voters and monitors can examine those choices and decide whether they are right or not. Or voters can just decide in the public square, and petition elected officials to produce that popular outcome using executive-branch discretion.

This idea of governance by a higher truth that exists independently, which can then be

implemented by courts or businesses, might be promoted using such ideas as the voters possess collective wisdom, or the people know what is actually going on in their communities and are virtuous. And so "the people" have an opinion, and want to control everything they see in the best interest of their own moral judgment, by directly deciding outcomes rather than rules. Any decision I make is likely to be better for me than one made by some stranger on my behalf, times infinity. Democracy provides direct oversight of decisions to ensure courts are producing justice (or by lynching if necessary).

There is nothing more obvious and more wrong, than you are smart and good, therefore if you control the decision the best decision will be made. Because this will limit how much information can be utilized and how many decisions can be made on your behalf. There will be thousands of innocent people in prison whose names you will never know, while your voter governance is limited to rooting for outcomes in a few court cases that are used to create a theater in the news. Just like if voters try to micromanage business, they will be deprived of industry and innovation.

The purpose of all this is in courts is the same as in industrial production, to be efficient and distributed and atomistic, and process as much information as possible (and to give more people a fair trial than the public ever would). There is supposed to be one decision maker who makes each decision based on one set of information, one time, using a predetermined set of rules. With separation of powers like the two-person system for missile launches to do only that.

If someone cheats, like if someone walks out of the grocery store without paying, you have to call the cops and start a new court proceeding, and suddenly what was supposed to be an efficient transaction all becomes very expensive. So first you argue with the

security guard, then the manager, then finally you call the cops, and maybe even go to trial. Or maybe the security guard just lets you go because it is not worth it. And if some sadistic cop cheats and harms you, usually they just let the cop go also. If you spend all day on one decision, things get backed up and all the decisions become garbage or left to politics to handle the overflow.

In the case of the retail theft, local politics favors punishing cheaters above a certain threshold, to deter theft and keep the general level of cheating at some minimum level, below which it is not cost-justified to reduce it any further. When cops and prosecutors cheat in court voters actually want them to get away with it as much as possible - voters want not just a minimum level, but an unlimited level - because it obtains the outcome the local voters think they want. That minimum level might include cops lying to pull over undesirables and search their cars, or can be whatever current form state-contrived evidence and witch trials and have taken.

Local politics wants judges and prosecutors to look the other way on witnesses lying, and to make biased rulings, to allow that a convenient level of cheating takes place, the minimum level necessary to get reelected. But higher court judges will cite costs and every other argument including total nonsense, rather than say this real reason why they are letting cops and prosecutors get away with breaking the rules. Appeals courts will say something with little connection to the actual filings they are supposed to review, or will casually offer reasons they do not even have to read the filings. Appeals courts are not compelled to stand up straight, by the eye of politics, in 99% of cases.

At the end, there is no political will to spend the money to give everyone a trial in the first place; people don't want to pay for a process they don't actually want, because they don't perceive how it benefits them. So that even having a trial is usually avoided by

coercing witnesses to lie in plea bargains, and financially rewarding defense lawyers who persuade their clients to cooperate arranging outcomes, thereby foregoing due process and a public trial. The public has little idea what is going on in the majority of cases, during the years and decades after the news media initially quotes the cops.

So higher court judges and legislatures will try to stop you starting any new sequence of court proceedings (so they can instead use the courts to create a theater they are stopping fentanyl). And innocent people serving life sentences have to hope for a trial by politician in the executive branch, where some prosecutor sees letting one innocent person out as a way to get elected, decades after there is any political cost to the cops and prosecutors who lied in court to railroad him. The fairytale process intended by law is corrupted by competing interests at every turn.

Where the public is interested in the outcome, the pressure is on courts to deliver those popular decisions instead of doing their job. At each stage there will be pressure to insert the facts the public believes, and create the outcome the public wants, and insulate that outcome against appeals courts needing only appeal to the voters.

Or absent the public caring, court officers arrange the outcome that is most convenient to the lawyers, and screw the people whose lives are affected. In cases where the public is not interested, court officers are left to ignore the law with only the most superficial appearance of rituals, while doing whatever is in their own backroom interests. Where the public is not interested, the incentive is to just lie to finish the case with minimal work. And insert minimal superficial facts and decisions often completely invented nonsense, to give the casual appearance of law to appeals courts as if anyone even cares.

11. Easiest for Courts to use Lies

Every designed decision maker can obstruct this collective will or local social consensus, and is supposed to do so by making a decision independent of, or other than the one demanded by the crowd or by the self interests of lawyers. But political levers are applied at every point, to subvert such independent decision makers into a railroad for the local popular will. And there are various points in the process, where outcomes can be fixed along lines of political convenience, whether in response to the public, or based on some backroom dealings among the local lawyers' clique. And there are various tricks to make sure these outcomes are insulated against interference from higher courts.

A legal decision has three elementary steps, 1) hear testimony, 2) decide some accepted set of facts based on that testimony, 3) apply the law to that set of facts to decide the punishment. A legal proceeding (in a local "trial court" or "originating venue") has three stages of such legal decisions, where three different people take the sub-steps of finding fact and measuring it against law, a) the accuser, b) the judge, and c) the jury. The first A stage is decided by the accuser, the second B stage is decided by a judge, the third C stage is decided by a jury. None of these decisions is decided by the voter or in the public square, not any more than they decide for the farmer or baker. Rather, the public demand for justice is obtained - or often obstructed - by the designated decision makers applying the law to the information at their unique vantage points.

The three stages are A) the accuser says what he believes the facts to be and how they violate the law, B) the judge decides whether to accept or reject those facts and whether they seem to violate the law, C) the jury decides whether to accept those facts and whether they violate the law. In stage A the accuser decides whether to file a case, in stage B the judge decides whether the preliminary accusations merit further proceedings or should be dismissed. Stage C is the proceeding in front of the jury to decide what the

facts are, to measure them against the law without being corrupted by politics, and decide the punishment.

This is distributed decision-making, where each decision maker has a different set of facts visible at his vantage point, different knowledge, and different incentives. The judge brings the expertise on the law (and rations court resources). The jury is supposed to be the least corruptible, deciding facts without bias, and then measuring those facts against law with no personal benefit or incentive from deciding one outcome versus another.

Notice the weak points in process, in the sort of synthetic price system to create distributed decision makers who have an incentive to follow the law and a deterrent to ignore it. The cop is not supposed to decide whether people broke the law, and certainly not punish them for having the wrong religion, he is supposed to collect information, and then bring his product to the market of the law to decide. The main decision he makes is whether he asks the judge for permission to collect information, to harass someone, to then bring the facts and law to the jury.

But the trick to move the actual decision to the cop is to fix all the other decisions by using his role as information collector to fake information, to obtain the outcome he wants. This also helps the other elected officials - the mayor, the judge, the prosecutor - because it doesn't force one of the three to lose an election for being wrong, when the court outcome disagrees with the cop's allegations which have already been sold to the voter. And the judge is also a weak point, because the judge can simply refuse to do anything that regulates cops other than politics, and can insert fake legal justifications for this.

The synthetic price system fails, because the cop is paid for his information in proportion to whether it obtains the outcome the voters want based on their information, not based on the benefit of the law applied to the actual information, which is achieved by the cop following the law. The cop is penalized by voters as regulators for following the law, and rewarded for breaking it. And the other elected officials are paid based on whether their decisions are in conflict with the dominant social narrative, the cop's narrative, which is the only narrative newspapers can publish immune from lawsuits and investigative costs.

The most robust way to fix court outcomes is to allow whatever testimony is politically convenient, based on the theory it is not up to the court to bar the testimony, it is up to the finder of fact to decide if it is credible. And then in a shell game, the finder of fact ignores the low standard under which the testimony was admitted, not considering whether the witness is deterred from lying as the theater of the Oath suggests, or is actually rewarded by the government for lying in proportion as it dovetails with the popular narrative. So the idea that the finder of fact is examining the testimony critically, rather than politics deciding what facts are manufactured and accepted, is collective theater. The cop lying, or the jailhouse confession witness lying - both to obtain the politically convenient outcome - is conveniently blamed on the jury, and so colored as distributed decision making.

It's supposed to be easier for the law than for politics, to capture all 12 jurors. But it is easy for politics to capture all 12 witnesses, including the witch herself who is forced to confess. An independent department to deter witnesses lying, prevents one department or political incentives or social consensus, from capturing witnesses. Or judges can just immunize cops to do what they want, without even reporting to courts.

The average person has trouble thinking about these different stages and decision makers. He just wants to know "What did the accused criminal do?" And then decide whether the accused is guilty, as if there is one set of facts and decision maker - the social collective - one vantage point shared by everyone. What does the cop say the criminal did? Okay, then lock him up. If we think he is guilty, and the cop harassed him and the court found him guilty, then courts are functioning correctly and officials get reelected.

The idea that the different decision makers, accuser and jury, have different sets of facts and different incentives, is as easy to gloss over as saying the home-builders should just build a home for everyone. And police should put the bad people in prison, we all know who those bad people are. (Attorney General William Barr once said police know who the shooters are, the courts just obstruct police doing the right thing. This was around the time the McCloskeys in Missouri were found guilty for brandishing guns at political protesters.)

People imagine the world as if seen from a single vantage point, by an actor who has perfect control and information, like a laboratory experiment. They focus on the outcome, not the problems of the real-world process. They say "If I combine hydrogen and oxygen, it will burn." They gloss over the problem of "What process will combine hydrogen and oxygen? Who will combine hydrogen and oxygen, where will he get it?" They say if the cops know who the shooters are, the cops should just put them in jail without interference.

Everything is collapsed and oversimplified in the mind, so that imposing those decisions on other people - leaving it to the cop and voter - would be disastrous. Socialists always create government power, with a utopian blindness to how the real world works and how

it is corrupted. Because their minds are blind to the complex social processes, and knowledge and control limitations.

Imagine for a moment if you had no arms. Then how to combine hydrogen and oxygen would be a bigger problem. That is the problem society faces. Because only in totalitarian societies, do the arms of government exist to eliminate the problem of social processes and autonomous actors, to achieve ideal ends. The first impulse of someone who wants an ideal outcome, is therefore to create that absolute power, such as by electing a virtuous prosecutor and letting him ignore the law. And bypass social processes and institutions which assemble free actors into beneficial patterns, in favor of a top-down ordering. But once that power is created - the arms - it ends up not used for the ideal ends, but for self preservation by those in power.

It is hard for voters to oversee something which it is hard to think about or even write about, and when they don't even understand what they are being asked to do, whether demand outcomes (by electing sheriffs), or demand courts follow the law (by electing legislators). And when elected officials encourage them to vote based on outcomes rather than whether rules were followed. Elected officials get elected by promising and lying about outcomes, rather than by promising something so boring as following the law to let juries decide.

Are voters supposed to be making sure courts use the facts, which newspapers have been immunized to recite as true quoting local executive-branch officials? The answer is no, but every voter would say yes. Are voters supposed to vote for a judge who follows the rules? Or who gets the correct outcome by convicting whomever police have told voters is guilty, who police have selectively immunized newspapers to only say is guilty? Voters just want to know a) is he guilty, and b) did the court find him guilty? If so, I will

vote for the judge or prosecutor, if not I will vote to replace them. Which leaves it to federal courts, not local voters, to enforce due process.

Schoolchildren are taught to let the baker decide, but not the jury. Americans commonly believe collectivism in business is bad, but in court decisions is good. Voters mistake their role and the role of courts as to monitor whether the outcome of a decision was correct, rather than whether the rules were followed, and whether the rules need to be adjusted. Many voters may prefer or accept breaking the rules, if the results is an outcome which appears correct to the collective. Their adjustment to the rules would not be "jurors need to be cured of prejudice", it would be "we decide the outcome in the town square".

Today there are millions of voters who know nothing about courts (who don't need to know anything), and who nobody cares what courts do to those same voters as individual nobodies. And there are more laws and infractions than can ever hope to receive a fair trial even if people wanted for there to be. So people want courts that enact their popular will like an executive, rather than protect everyone's individual rights by enforcing the laws (which laws enable society to survive, and even prosper with commerce rather than conflict, despite people's worse impulses).

When voters oversee courts, they want courts that act more like elected executive-branch officials without the extra steps. They see courts as more like getting married, where people decide outside of court who wants to get married, and then they go to the judge to ask him to put the government stamp on it. Like "Free Mumia" or "Free Julian Assange", they would prefer to petition the executive who goes to prison, like they did with the shire reeve 1,000 years ago. People actually want a local executive officer who simply enacts their democratic will, rather than a judge who makes the decision in an

aloof manner like a money-lender or private businessman.

And the purpose of courts is specifically to ignore this, specifically to resist the public and the collective will, and to instead create distributed decision makers with private fact sets. And to measure those facts against the genetic code of law rather than human instinct, to create the outcome which benefits the public. Where which outcomes are beneficial is dictated not by direct public oversight, but by law passed by the legislature, and validated through natural selection for survival of the civilization with the best laws, even if the citizens hate their laws and the process.

Historically in a tribe, or a shire reeve before the Magna Carta required a witness be measured against law, the cop would simply be the executive of the majority's collective will. Genuine court processes are incompatible with this collective decision-making instinct, where everyone knows the same set of facts as if there is one vantage point, and everybody can decide anything for anyone else.

But not only the public, but court officers themselves such as prosecutors and lawyers see this as unfortunate and unnatural drudgery, which everyone involved would rather dispense with while keeping up only the minimal appearances. And instead just go through a more natural social process, and make the people who matter happy with the politically popular outcome. People actually believe due process is a cost without a benefit, a traditional ritual imposed for no reason, when everyone knows what the outcome should be, and even the witch herself eventually confesses.

III. CHILD WORLDVIEW OVERWRITES FEDERAL LAW WITH MARXISM

12. The Fragmented Utopia of Case Law

After the industrial revolution, economists like Karl Marx made heroic efforts to propose alternate systems for coordinating economic actors, other than free-market auctions. These economic theorists imagined complete nations and societies, which visions seemed logically consistent. Even if they missed flawed assumptions permeating the entire vision. Which flaws remained difficult to grasp within their perceptions of how the world works, even after their visions had failed.

This can be contrasted against the utopia invented by judges in case law, where each judge only imagines a fragment of a utopia necessary for a particular case (though based on the same utopian and flawed assumptions people like Marx dipped into). So that if you try to piece together the various fragments of this utopia from each case, it is not even logically consistent. And nor is their utopia ever held accountable as a whole, for its poor real-world results.

For example, various fragments describing the prosecutor as an economic actor come in pieces: An assumption that he will "serve the broader public interest" if he can't be sued in Imbler v. Pachtman. And "we have chosen to rely on the integrity of prosecutors not to introduce untrustworthy evidence into the system" in U.S. v. Bernal-Obeso. Nowhere is it detailed how the prosecutor will come to do these things even if based on voters rather than prices. Or why we have juries, if prosecutors can be trusted.

Judges imagine or assume prosecutors operate based on an internal altruism (or voters are unrealistically wise), which sort of enables them to know what is true and false. Except there is not any single logically consistent explanation at all of what this nature of the elected or appointed prosecutor is. Fragments of the characteristics of this imaginary creature are only invented and introduced on the spot, as necessary to repeal

law and violate rights in a particular case. These fragments are forgotten in other cases where they are not so conveniently useful, rather than joined into a coherent vision.

Nowhere does anyone try to explain the nature of this prosecutor, the way Adam Smith and Karl Marx attempted to describe the nature of the baker - his constraints and motivations - in their competing systems. Judges generally rely on assumptions far simpler and more childish than anything Marx was able to get away with, such as that human nature is good, or that the collective will is good and is informed, and somehow this is transmitted to the behavior of the prosecutor. Judges are rarely challenged about the quality of their suspect economics.

So that we have judges like Antonin Scalia in Hudson v. Michigan, imagining and alluding to an economic system where police don't violate the Fourth Amendment, without being regulated by courts but rather based on "extant factors". Without being pressed for detail on these economic mechanisms. Or Justice Gorsuch in City of Grants Pass referring to "the collective wisdom the American people possess", without detailing what institutions other than written law conserve or propagate that wisdom.

There are academics who try to come up with more complete concepts, such as Steven Calabresi's "Unitary Executive" or Frank Easterbrook's "equal treatment doctrine". But still without providing enough analysis to examine the nature of these creatures and the flawed assumptions supporting them. Such academics are constrained only by being consistent with previous words of law while trying to replace it with some utopian will of the collective. Legal academics are more pressed with not contradicting or reinterpreting previous phrases, and far less with considering and accommodating the behavior of real people in the real world.

Judges don't need to prove to you that voters will discover and respond to misbehavior, the way economists must detail the processes by which their economic actors will respond to need and scarcity. Judges only need to show their utopia can be justified with biased and rigged word games and the simplest feel-good phrases, even as it creates unfettered executive power the same as other utopian visions.

When pressed for specifics, the best any judge can tell you is if the executive branch misbehaves, there will be political speech about it, and the voters can choose somebody else. If Marx proposed this same mechanism for regulating the baker or shoe maker, he would have been laughed out of town. But he would also have been ashamed of himself, unlike judges who are proud of their clever and childish little word games to create dictators.

In other words, judges proceed from the assumption that collective decision making and central planning work, and make that jive with existing phrases of law. Unlike economists who are pressed to examine this assumption, and show that collective decision making and central planning work, not play word games pretending this is what old phrases actually call for. No economist would ever be permitted to promote monarchy, based solely on a claim that is what law originally called for.

Marx created dictators unintentionally, without imagining dictators would serve the public good. Judges create dictators intentionally, based on a propaganda talking point if not a genuine belief, that elected officials will serve the public good. So they remove juries as decision makers the same as Marxists removed businessmen. Such as by saying state witnesses should be believed when prosecutors let them out of prison conditional on saying suspects are guilty. But the same witnesses are unreliable when, for reasons other than the prosecutor coercing them, they later claim to have lied.

Courts describe small pieces of this imaginary and illogical utopia, as justifications of particular rulings. Back in the old days the government violated rights outside court. Judges have formalized contraptions by which the government can violate rights in court. They have done this using rulings based on a utopian vision of the world, quite different from the real world our Constitution and rights were designed to improve on.

Case law can overwrite law with utopia in a way designed to achieve what economists cannot, by constructing it in fragments of word games, rather than detailed economic analysis with feedback from real-world results. The utopia imagined by Supreme Court justices is held to far less scrutiny than the utopias invented by people like Karl Marx, and is better insulated against the counter-productive results in the real world.

13. Legal Justification to Do What the Crowd Wants

Among the many tricks courts use to abdicate their jurisdiction to politics, is accepting or dismissing injuries, which is almost as powerful as accepting or dismissing facts to contrive an outcome. In general, "conservative" judges have elevated injuries to the collective above injuries to the individual, because they have elevated the collective as a decision-maker and collective decision-making, over the individual as a decision-maker and distributed decision-making which they are not educated about.

Pursuant to this scheme, justices call psychic interests of the collective such as revenge "real", and real injuries to individuals merely "psychic". The purpose is to then say Article III only gives us jurisdiction to protect real injuries. And only psychic injuries to the collective are real. Therefore Article III dictates courts must protect whatever is politically popular.

Once accepted as real, all injuries are protected by some legal principle, standing to seek it, and jurisdiction to enforce it. We can see this across a large variety of cases where if something is politically popular, justices manufacture an interest, standing, and federal jurisdiction, then find some legal principle to protect what the crowd wants over actual written rights.

14. Filtering/Replacing Rights with a Psychic Perceptions Overlay

Written rights have to be interpreted and defined with details. That gives sophists and charlatans an opportunity to replace them with something totally different. Rights have to be A, A means B, and only person X has a right ask a court for B. The trick justices use to overwrite a new Constitution in the details of this cookbook that courts actually use, is to replace written laws with "interests", and then say things like the only interests are public ones or concrete physical ones, only the executive branch can enforce interests, and so on.

An "interest" is simply something a judge believes is popular. It is just a word trick, to switch from written rights to politically popular things. Just because a bunch of people perceive a popular interest exists, doesn't mean that Congress or any legislator ever wrote a law protecting that interest. But the Supreme Court has become a representative legislative body even more populist than the House of Representatives. The Supreme Court represents popular things that no legislator would write into law, by standing up for the will of the crowd represented in "interests". In other words, Fidel Castro.

To understand what an "interest" is, consider the one used in Trump v. Anderson "a uniquely important national interest". This was not written or voted on by any legislator, rather the right of states to choose their own electors is written clearly in the Constitution (with a psychic interest in "finality" of knowing who is on their ballot). In

Texas v. Pennsylvania when it was unpopular to overturn the election, the Supreme Court said Texas and other states had no "cognizable" interest in how Pennsylvania chose their electors. If Trump had chosen not to intervene, no member of the executive branch would have represented this national "interest". Trump did not raise any personal liberty interest, like the right of association. And the Supreme Court could have invented that of course New York could have kept Confederate generals off their Presidential ballot. But because having Trump on the ballot was nationally popular, the Supreme Court said the federal government had an "interest" in who is on Colorado's ballot. And so the written and traditional Article II power to keep scofflaws off their ballot had been removed from the states and had to be granted back.

By "uniquely", they mean it is not written in law or a traditional liberty interest, rather it is something judges invented to replace written law, based on their psychic connection with the people. Certainly we all agree that what we feel is important is what is important. But sometimes as we will see in Lujan, what we see as rights are not important, only the executive branch knows what is important, reducing rights to things the executive branch wants. Unlike actual rights, the "interests" primarily accepted by justices are "public" ones, and the party with standing to enforce them is usually the executive branch. (One might wonder if instead of acting as intervenor Trump had come the next day as petitioner, if Colorado removing Trump could have been called the important interest actually written somewhere, of not having insurrectionists. If Colorado initiates as accuser, they must be interpreting written federal law in error, because of the unwritten interest. But if Trump initiates as accuser, will he be confined to asserting personal liberty interests against states rights or the written national interest of not having insurrectionists, or can he ask the court to invent a national interest against these? Do courts give parties what they want because of who they are, meaning who is asking is what makes it an interest, where anything the executive branch wants is by

definition an interest?)

When talking about "states rights" in criminal justice, justices like Scalia are very generous with "psychic" interests of the community (against federal law), in things like "justice" and "finality" in criminal judgments (“victims of crime move forward knowing the moral judgment will be carried out. Unsettling these expectations inflicts a profound injury to the powerful and legitimate interest in punishing the guilty” Calderon v. Thompson, 523 U.S. 538, 539 (1998)). No taxpayer suffers a direct "wallet injury" when a murderer escapes justice. The purely "psychic" nature of such interests as interpreted by courts, is illustrated by the value courts place on using jailhouse confession witnesses to convict innocent people whom the public has been told are guilty, while letting the actually guilty remain undiscovered. Having murderers on the street is of no real cost to the individual, as long as the public is blissfully unaware, whereas locking up the innocent is very valuable to psychic interests like "finality".

But when the government is spending money to cultivate Christian schools, the injury to the individual citizen plaintiff is dismissed for being merely "psychic" (“Psychic Injury, on the other hand, has nothing to do with the plaintiff's tax liability. Instead, the injury consists of the taxpayer's mental displeasure that money extracted from him is being spent in an unlawful manner. This shift in focus eliminates traceability and redressability problems.” Hein v. Freedom from Religion Foundation, Inc., No. 06-157, 2 (2007)). Religion is the genetic code communities use to survive. Financing competing religions creates as real an injury as dropping coyotes into the range of cougars to compete with them for food. The justices might have perceived a more concrete injury if the government financed mosques, which then tried to recruit their children and preached that their society should be destroyed.

Doesn't matter if the Constitution has been interpreted as saying the government can't finance a religion. The violation only becomes real if the majority of the collective decides they don't like it. It's not what's written in the law that matters, its the dominant social consensus that matters. So the Supreme Court makes a "prudential" decision not to spend their time protecting written rights, but to worry about what is politically popular. So people show up in court claiming to have standing as an individual, and the Supreme Court then uses their case as an occasion to do something popular. (As we will see, this is often just granting for once the rights already protected in law, rather than saying "if the legislature really doesn't want the 10 Commandments posted, they can pass yet another law to stop it since we ignored the first one they passed".)

"Offended observer standing" implies that federal courts perceive the role and effect of religion in society, is limited to either offending or pleasing people who witness the religion's existence. Justices honestly believe spreading religion has no role in or effect on society, or on members of competing religions. One wonders if states could not find a legally cheaper way to offend or please people than posting the 10 Commandments, given that state legal arguments accept that offending or pleasing people is the only effect of religion. Unlike a political advertisement which has a real effect and can be regulated, a religious display is merely abstract art which you like or don't. So in other words the government can establish a religion but not promote a political party, because promoting a religion has no real or uniquely religious effect beyond psychic pain and pleasure to third parties.

Actual injuries to an individual can be reduced to "psychic" preferences if they are unpopular, which preferences are then unpopular for only being preferred by one person. Whereas popular psychic preferences, such as to have Trump on the ballot, are called an "interest" and then treated as a law. The Supreme Court often overcomes their inventions

not being written anywhere, by saying this is what people did back in tribal times, meaning unwritten common law. And they say the collective, and the powerful, never explicitly gave up their right to do whatever they want, and so they still have it.

Replacing rights with what is popular by saying individual rights are merely "psychic", is harder to do when someone has all his money taken away or a gash cut in his side. So these special rights which are harder to overwrite with political popularity, are called "concrete and particular" or "wallet injuries". "Psychic" could perhaps be defined as witnessed without immediately or directly affecting your body or wallet, but we will see there is no such consistent logic for creating these things that are not written in the Constitution, it is just what is politically convenient.

There is nothing in the Constitution that says the only violations of the rights or interests of individuals which can be detected by courts are "wallet injuries", or some classification of things justices have discretion to call "direct", with the rest being outside the jurisdiction of courts and instead enforced by voters through their influence on the discretion of elected executives. On the other side, there is nothing to stop the Constitution being amended to cure psychic injuries to the public to enable the Supreme Court to consider these injuries. Voters and legislators could stop Colorado removing Trump from their ballot and making other states unhappy, using "political surveillance" (United States v. Richardson) in the absence of a written right or liberty interest to weigh against Colorado's Article II "core power" (Shinn v. Ramirez) to remove him. But instead of enforcing written rights and letting the legislators amend unpopular parts of the Constitution, the Supreme Court enforces popular perceptions of values by pretending popular "interests" serve as laws. And only becomes self-aware that this is what they are doing in abortion cases.

The government violating your Fourth Amendment rights has also been dismissed, like attacking your religion, as a minimal matter of fleeting "mental angst" without real costs or injuries. Justices remake the right of people "to be secure in their papers and effects" as "privacy and dignity" (Hudson v. Michigan), with which words they define down the right, and create ambiguity and discretion to say what qualifies as an injury to it or not. The injury from a police search without real reason to believe there is a crime, is portrayed as the momentary unpleasantness of having cops in your house (“The wrong condemned is the unjustified governmental invasion of these areas of an individual's life. That wrong... is fully accomplished by the original search without probable cause. ” United States v. Calandra, 414 U.S. 338, 354 (1974), “the use of fruits of a past unlawful search or seizure works no new Fourth Amendment wrong.” United States v. Leon, 468 U.S. 897, (1984)).

This ignores that the real injuries from privacy violations, is that the privacy violation can be used to create some other undesired consequence. The harm of a privacy violation is not that people are in your house or your computer. It's that they use the information or opportunity to harm you and take advantage of you. A person who sees a draft Supreme Court opinion doesn't make justices unhappy by looking at it, but by sharing it on the Internet days later. Cops can find out you were not home on Friday night, and use that to falsely accuse you of a murder that happened Friday night. Cops can find a common knife in your kitchen, and tell a judge it matches the knife used in a murder. The judge can then say "I find this man guilty, therefore despite the reasons for the search being faked by government, the jury must be allowed to see the knife to make sure they reach this same correct conclusion."

So when cops get information and use it to get an advantage and harm or accuse you, often falsely and certainly before it has been determined whether you are guilty, that is a

real cost to you that is called "psychic" or an offense to "dignity". And it is a psychic benefit to the public which is called real, where only one of these two is worthy of a court's protection. This is just a trick to portray what the 51% majority wants as legitimate, whereas what the individual wants is not legitimate. The way they contrive this is by saying psychic injuries to the collective are real, whereas real injuries to the individual are merely psychic. The emotional and impulsive interest of the majority in cops being able to lie and do whatever they want to harm and find angles to take advantage of unpopular people is real and virtuous, and overrides the merely psychic injury of an individual victimized by state action in an illegal search.

The Fourth Amendment does not protect your "dignity" (Herring's gun was his "effects" not his "dignity" in Herring v. United States). And the Fourth Amendment does not call for federal courts to theorize about whether local voters generally protect rights through "political surveillance" so that federal courts don't need to (Hudson v Michigan). It calls for judges to act as a finder of fact of probable cause in individual case circumstances (which is what the Fourth Amendment creates a hearing and jurisdiction for courts to do). But the actual written right is minimized to a psychic interest, and handing the regulation of police action and protection of your rights over to the local collective regulating the executive branch through politics is interpreted to be what is actually in the text of the Fourth Amendment ("extant factors" Hudson v. Michigan).

"Privacy and dignity" (Hudson v. Michigan) are measures of whether the collective witnesses your secrets and perceives you as respectable, not of whether cops have taken your property ("effects"). It's like there is no physical reality for judges only social consensus which makes psychic interests real. When one person doesn't like something that is merely "psychic", where a whole lot of people disliking it (or at least perceiving it) would be required to make it real. So the violation of your Fourth Amendment rights

is the public perception of your dignity or your secrets, not cops taking your effects. Antonin Scalia thinks Fourth Amendment rights have to do with whether the social consensus worships him or perceives him as Jabba the Hutt after seeing him naked, and then has the arrogance to point out that the right to abortion is not written anywhere.

Federal courts have said that defamation, such as falsely portraying someone as a criminal without any witness or non-negligent process as due to establish it is true, is an injury in state courts, but not itself an injury to "liberty interests" protected against state action in federal courts. Not unless the defamation results in a real injury to a liberty interest (the "stigma plus" standard in Paul v. Davis). So the very real costs to the individual of being harmed by being defamed, are considered psychic when the same harm is done by the State with popular voter support, rather than done by an individual. (The "dignity" liberty interest which is eagerly accepted in Hudson v. Michigan as a substitute for being secure against police using your papers, is no longer recognized as a liberty interest when it is not useful to overwrite and erase actual rights.) Whereas state actors being immunized to lie to voters about private citizens and their own state activity, is seen as having a real benefit and a wallet benefit to the community.

Costs and injuries to the community are very easy for courts to imagine and recognize and calculate and weigh against an individual's psychic interests, when individuals are suing the executive branch (e.g. the "public interest" in Imbler of a prosecutor being fearless to lie). But the costs to individuals are very hard for courts to recognize and calculate, when individuals are run over. In this manner violations of your Constitutional rights are minimized to your own capricious tastes and dismissed. That is promoting totalitarian Marxism in federal law.

In Lujan, Scalia shifts from written rights to political perceptions or social consensus, by

replacing the word "Laws" in the Constitution, with "the public interest" as what the executive branch pursues ("Vindicating the public interest is the function of the Congress and the Chief Executive. To allow that interest to be converted into an individual right by a statute denominating it as such and permitting all citizens to sue, regardless of whether they suffered any concrete injury, would authorize Congress to transfer from the President to the courts the Chief Executive's most important constitutional duty, to 'take Care that the Laws be faithfully executed,' Art. II, § 3" (Lujan v. Defs. of Wildlife, 504 U.S. 555, 556 (1992)).

Scalia's whole argument boils down to individual environmental rights don't exist and injuries to them are not real harms. But he doesn't cite the Constitution to say this, he simply invents that such harms are not "concrete". Congress, under political surveillance, has said the harms are concrete. We will see later, this is a common pattern where legislatures create popular rights, and the executive branch gets courts to erase those rights in unpopular actual cases. But for lack of any real law to say the harms are not concrete, Scalia just said "executive branch".

Scalia presented some gobbledygook that is only accepted as brilliant because it is used to say the executive branch can do what is popular. He said something like laws are public interests, and therefore individuals cannot ask courts to enforce laws because an individual does not represent the public interest. Because the Constitution has not made individuals elected public officers. Or because when laws are public interests, injuries to legal rights are by definition injuries to the public, not legal rights of the individual. So the only legal rights which exist are public interests enforced by the executive branch. Or something like that, where the sophistry of saying individuals are excluded from suing for their rights because of separation of powers, is only accepted out of political popularity.

What Scalia might have said is environmental rights are not real individual rights, or environmental rights have to be written in the Constitution. These are not rights they are majority preferences. They were never passed by a super-majority nor selected by tradition. Scalia might have said this is different from the rights enforcement created in the Ku Klux Klan Act in some way. (Scalia had a problem in that he had already erased all real rights by calling them interests, so pointing out these new rights really were just interests, had lost its bang.)

What Scalia actually said or is interpreted as saying, is that individuals can't sue for their rights or to make the government follow the law. Not limited to environmental things, and which might include the supposedly "psychic" injuries such as religious, of multiple individuals injured by the executive branch. Probably because Scalia had difficulty making the argument these were not real harms to individuals. He really believed it is the job of public officials to build a park or protect collective land, but could not find that written in the Constitution or clearly articulate why.

This makes one wonder who the intervenor could be, if instead of the Supreme Court inventing the "national interest" of Trump being on the Colorado ballot, the legislature had actually written that there was such a national interest. Would that then have denied Trump the standing to respond as intervenor, or denied Trump as citizen a venue to create a federal law case somehow?

Harming the environment is different from, for example, a law being passed to spend money building a state park, and the executive branch neglects to do it. Because having the park is created differently by the legislature as the will of the majority, not the right of any minority. Such a law is a way for the majority to decide how to spend their

money and express their political will, not a way for courts to restrain and check the action of the executive branch against minorities, in defiance of the expressed political will of the majority.

Assume Congress created both a majority interest in the environment enforced by the executive branch, and a minority right in the environment enforced by individuals. This is not something like spending money on a new state park, which is only an interest to the extent it is a majority interest. There is no right of a minority on the other side, of the expressed will of the majority whether to build a state park or not build it. There is nothing that says political surveillance can't be used to create such minority rights. And once the legislature takes that step to create unpopular court outcomes (and assuming they can), it is handed off to no longer be a matter for the executive branch or political surveillance, but individual rights. Between political surveillance and court enforcement, unpopular court outcomes can only be achieved by court enforcement.

Harming the environment is different from building a park, it is destroying collective property. Property which Congress had determined that individuals somehow had a property right to. Transferring a property right in public property is different from making a collective decision to build a park on public property. They transferred the right to individuals. Congress created a private property right, in effect to create distributed private decision makers, who are presumably better prepared to discover and articulate their own injuries. This is another way of discovering values and preferences other than majority vote. But Scalia doesn't contemplate distributed decision-making, rather than government central planning, to discover costs and preferences.

(In a democracy the executive branch will not, and by definition cannot survive trying to, protect minority interests. Those interests would first have to be made politically

popular, before the executive branch could protect them. The collective has a crude attention span. It's unlikely the public would be aware of some little lagoon somewhere, that a public official lets his friend build a factory on and pollute. But nor can private citizens who become aware of local damage to public property, raise awareness politically. Because there could be a thousand web pages, all claiming that each one of their thousand local lagoons has been polluted, most of them lying in a political hustle. Each voter cannot go through the whole list and visit each lagoon to research it. So there has to be a distributed decision maker, to discover in which case there really is a government official letting his business friend pollute the lagoon. If we want someone to produce information to be balanced against the benefit to consumers of the factory's product.

The difference between a minority right, and a property right, is a person with a property right is presumed to add unique information from his vantage point. So we delegate decisions to him. Whereas a minority right is simply a right that is not asserted by the executive branch. Every landlord who sues a contractor that cheated him, enforces the law on behalf of tenants. The collective assigns and delegates decision making, where there is no law that says Congress can't cultivate various kinds of decision makers. There is nothing in the Constitution that says a harm to a minority value cannot be protected against politics and corruption by making it a judiciable injury to a private party.)

A defining characteristic of "interests" is they are not understood to have two different locations. They are merely weighed against each other. So it's like if one collective had two interests, one that we use our gas to drive to the beach, the other that we save our gas for an emergency. So we take a vote whether to go to the beach. In this manner private rights are turned to universally-perceived interests. Whereas if there are two different locations, then you have one interest that is 100% known and important at one

location which is a right, and a competing interest which is 100% important at another location which either is or is not a right. Two people have an interest to drink the beer in my fridge, only one person has a right to it. Rights create distributed decision making, not votes.

But Scalia doesn't understand property rights and distributed decision making. Scalia understands psychic interests, discovered by crowd psychology, and wallet injuries. So in Scalia's world there's First Amendment rights, there's wallet injuries, and then there's interests. And all that other stuff is non-existent except when popular. But in Lujan he can't figure out a way to say the harms are only psychic, his usual trick of making rights vanish to give power to the executive branch. So he goes straight to saying only the executive branch can enforce interests, according to the Constitution. It's not that the harms don't exist so the executive branch can proceed like in other cases. It's that only the executive branch can protect you from these harms. One way or another, Scalia just says "executive branch".

Scalia became a little puffed up by the fan club he got after defending President Reagan's supreme power in Morrison v. Olsen, when he said only the executive branch can enforce the law (as opposed to Congress or the Supreme Court - "The executive Power shall be vested in a President of the United States"). Scalia was like wow, any time I say the executive branch can do whatever they want, I am worshiped as a hero by all these KKK people! An Italian-American even! So he said hey, how about I try just saying the same thing again in Lujan, that private parties accusing people of crimes with petitions initiating civil court actions violates the separation of powers. And big surprise, his fan club cheered Scalia saying the executive branch can run over your rights.

Rights are in the Constitution to protect them from the executive branch supervised by

the political will of the majority. Rights are designed to only need a small minority of people to support them, to prevent them from being repealed with amendment. Scalia argues that the only laws which should be enforced, are popular ones that elected executives want to enforce, effectively repealing rights. In any case it seemingly cannot be the job of the executive branch to enforce the separation of powers itself, to enforce laws within the separation of powers, but not the separation of powers itself. That's the job for courts using orders and injunctions, initiated sua sponte or by accusers other than the executive branch, and irresistible by the executive branch.

The public interest is brought to courts through competing channels, including a) rights which may only be supported by a minority large enough to prevent amendments to repeal them (and by individuals who assert those rights as parties), b) present and past legislative majorities who argue in court using written law, and c) the executive branch which argues for case outcomes based on the will of the 51% majority. Some sort of public interests are presumably represented by the rights in the Bill of Rights, which require a super-majority to create or overturn. But the executive branch of every state asks to violate and is stopped by courts from violating these criminal process rights every day. You would think after reading Scalia, that the only person who ever files anything in court is the executive branch, and only to report to courts what voters want.

The executive branch does whatever voters want done, and is only constrained to executing the actual laws by courts, through the separation of powers. Article II saying "he shall take Care that the Laws be faithfully executed" does not limit this function to the executive branch, much less eliminate the role of courts. This line in Article II does not really do much of anything relevant to the standing of individuals to ask courts to make executives follow the law faithfully, the plain text is silent on individual standing. It is certainly the responsibility of individuals to ask courts to enforce the law upon the

executive branch when individuals are being held without evidence of a crime. It is only by translating "Laws" to "public interests", that Scalia then makes the inane argument that an individual does not represent public interests, when what an individual is asking for is his rights, which protect some interest against political currents.

Justices created an entirely new scheme of rights and law that is only tenuously connected to the original rights written in the Constitution, and did not need the Constitution at its foundation for the justices to logically construct it. The Constitution plays a role more like simply inspiring debate, like "stone soup". And big surprise, the logical construction of a bunch of academics lacks the life experience and legislative wisdom of those who wrote the Constitution, and strips away and conflicts with its basic principles.

Based on being totally blind to the real world and what rights actually protect, Justices like Scalia make spurious and circular arguments replacing rights with "interests". Where you can only obtain legal protection for "legally protected interests", and even then the rights violations have to be "concrete" where some rights violations are not concrete (“concrete and particularized, actual or imminent invasion of a legally protected interest” Lujan v. Defs. of Wildlife, 504 U.S. 555, (1992)). This overlay reinterprets what courts protect to something other than written rights. That something is generally the political will of the majority, the opposite of rights.

Courts launder political decisions by portraying it as courts only have jurisdiction to address real injuries, rather than saying courts do whatever is politically convenient. They then use the intermediate step of saying things are real or not depending on whether they are politically popular or done by the executive branch. And then say Article III only gives us jurisdiction to remedy these real injuries, forgetting for the

moment that we have combined this with the step of defining real as politically popular. This is a common trick of using a two-step process, where the State uses two steps to evade the regulation of state actions that are more obviously forbidden when done in one step. Courts can't simply do what is politically popular. So they camouflage it with this intermediate classification layer calling rights "psychic" versus "legitimate" or "historical" interests. Or whatever word they use as a substitute for "politically popular". Which sophistry is quickly swallowed because it is politically popular.

15. Distributed Decision-Making and Democracy

Laws in court, and the price system in commerce, convey the costs and benefits to different people of actions other people take as incentives, more completely than the perceptions of the majority in the town square do. Justices prefer collective methods for discovering facts and values because they are not educated about and do not understand distributed decision making and how it separates us from and advances away from historical forms of society. The only decision mechanism they accept is social consensus (they don't think about property rights as delegating decision makers, only as creating wallet injuries). Collective decisions utilize less information, and are more likely to be wrong and therefore less virtuous than individual decisions.

The justices have gotten this wrong based on the common human error of assuming information is more perfect than it is. They ignore information costs to assume or imagine everyone has the same information, to then imagine things like that a single central planner can match resources to values based on discovered consensus. Such justices even seem to believe that the values perceived and decisions made by the collective are more virtuous than the values and decisions of the individual, and that the human impulses of the crowd are somehow more virtuous than the laws and institutions used to constrain and mitigate and improve upon those impulses. As a result, justices

like Antonin Scalia have conserved Marxism rather than individual rights in federal case law at the expense of our nation.

Democracy is shortsighted, by being able to make decisions that benefit 51% of people at the expense of 49%. In an extreme oversimplified example, consider 10 people vote 6 to 4, for the 6 to eat the 4. The 6 then vote 4 to 2 to eat the 2, and so on. This is shortsighted, because all 10 will be better off if all 10 engage in farming and ranching rather than eating each other. The people who are eaten are perceived as a cost or injury using distributed decision making, but perceived as a benefit using collective decision making. So civilizations that have rights which prevent people from eating each other, and instead use them to process information and make decisions that benefit each other, will displace civilizations that don't in a Darwinian process.

If the human mind is created for the environment in which people originally existed, where like animals their survival depended on land resources, people may have a shortsighted impulse to cull competitors for land resources, rather than to cultivate specialization and trading partners, despite the second one being more profitable in the long run. People may be inclined to perceive a greater benefit from harming others and reducing population, rather than perceive the actual benefit where individual wealth increases with population, in a capitalist rather than hunter-gatherer society. Because of such destructive inclinations, the collective decision is not guaranteed to be good for the community (unless you incorrectly imagine like Supreme Court justices that people are rational and informed and virtuous).

Put another way, social consensus is not a complete perception of benefits and injuries. It does not perceive costs and benefits to individuals as exhaustively as capitalism and the price system do. The price system is the way that these values are transmitted to

strangers who then perceive them as benefits and injuries. Social consensus does not perceive the value of individual rights, or the economic value to the community of individual rights, to create the massive productive efficiency of distributed decision makers. Justices emphasizing social consensus as a way of perceiving values and injuries, is inherently Marxist and promotes primitive conflict in society rather than prosperity. A society which protects individual rights against such social perceptions of values has a survival advantage, rather than gravitating to self-destructive conflict.

The only point is to say that to the extent the community is a single perceiving mind, which perceives costs and benefits when it chooses laws by simple majority, those perceptions can be imperfect or shortsighted. This has been mitigated by requiring various super-majorities and unanimous decisions to attack individuals. And by trying to exclude the will of the simple majority using rights and juries which are insulated against political currents. Society has advanced by combining these decision processes in some imperfect mix that is too complicated to dig into here, at the psychic expense of taking away power over property and rights from the dominant social consensus of the collective.

Suppose 10% of the time cops kick in someone's door, it is accidentally the wrong person. The 90% of the time they kick in the right door, it creates a benefit to the community of size C. Each instance creates a cost to an individual criminal I, but that cost is implicitly assumed by law to create a greater or equal benefit to the community of B. The sum of the profit on all these transactions of harming criminals is C, Sum(B-I) = C, the benefit to the community of police activity. So the cost to the individual criminal, I, and the benefit B, are included in C. The collective perceives that criminals create a cost to the community and kicking in their doors creates a benefit.

But the 10% of the time cops accidentally kick in the wrong door, there is a cost to that individual I, but no benefit B, so there is a loss of size I. That loss is suffered by an individual who is a member of the community. So the community takes a loss kicking in the wrong person's door. But because that loss is suffered by an individual rather than spread around to the whole community, that loss will be under-perceived in a democracy. So the individual is supposed to be able to sue to transmit this loss to the whole community, so it will be correctly perceived and weighed in the decision of how recklessly to kick in doors. (Kicking in innocent people's doors will negatively impact the survival of a society in the long run, whether or not these costs are ever consciously perceived.)

If the individual is a member of the community, then the injury to the community from illegal searches is the sum of I, the injuries to individuals from illegal searches. Any civil court process which somehow calculates that injury and transmits the entire cost the community to be perceived when deciding what laws to pass and what cops should do, would seem to promote rational decision making. But judges say that the community considering the cost to individual members of the community, would lead to irrational decisions. Judges assume the benefit of catching criminals is rational to imagine and weigh, but the cost to individuals harmed in illegal searches is somehow irrational to weigh. Or would be weighed too much if transmitted as an immediate wallet cost, rather than an immediate psychic perception (depending whether you like or dislike some rando getting his door kicked in).

Federal judges would say that kicking in doors is profitable to the community, even when we kick in the wrong person's door 10% of the time. Meaning Sum(B-I) for the 90% of the time we kick in the right door, minus Sum(I) for the 10% of the time we kick in the wrong door, is profitable. Particularly when democracy overweighs the benefits of

kicking in strangers' doors, and underweighs the cost to individuals of having their doors kicked in (and underweighs longer-term costs to the community).

Rights and lawsuits are supposed to fix this distorted perception, and improve the weighing of costs and benefits to find what is most profitable by doing what the price system does: Transmitting costs and benefits to people you never heard of, to be perceived by the larger society. Whereas judges think that social processes and the imagination of judges discover what is most profitable. So judges think immunity is the necessary fix to insert, to optimize the balance of how costs and benefits are perceived, using a decision process that reverts to primitive society (which has a "psychic" benefit because people like communism).

But suppose by kicking in 10% fewer doors with more hesitance by police and courts, we lost some Sum(B-I) = A from criminals who got away, but gained more in sum(I) = B from innocent people who are no longer harmed. If B is greater than A, that is a profitable adjustment. We are kicking in doors beyond the point of diminishing marginal returns, and can profit by kicking in fewer doors. But whether the decision to kick in fewer people's doors would be perceived as profitable by the collective, depends on whether the collective perceives only the psychic costs (and joys) of kicking in strangers' doors, or has the full actual costs to those individuals transmitted to the collective wallet (which still does not mean individual members of the collective notice or care, often years later).

Federal judges say the optimal level of door-kicking-in happens when we use the psychic costs perceived by the collective of kicking in the doors of innocent strangers, rather than transmit the real costs to those individuals to the collective as "wallet injuries" (which individual cost is also a long-term cost to the community in a capitalist

rather than hunter-gatherer society). Federal judges say considering the costs to individuals and minorities when we decide how many doors to kick in, would somehow harm the community. Federal judges say the optimal level of door-kicking can only be discovered, when we ignore costs to the individual and community as psychic, and only include psychic benefits perceived by the community of kicking in people's doors as real. This results in a less optimized level of door-kicking, which is what Marxism always does and why overwriting federal law based on it is bad.

Calling both monarch immunity and majority immunity "sovereign immunity", to erase the differences between monarchs and elected executive-branch actors in a democracy, is a trick to argue the historical power of tribal monarchs means the crowd or 51% majority has a legal right to do whatever they want. Or should have such a right, because collective decisions and the information process used to make them are virtuous. The immunity of monarchs was never the product of legislative wisdom but emerged from the field of battle. Monarch immunity existing in primitive agricultural societies does not mean "sovereign immunity" is useful in industrial trading societies. A Constitution designed to use rights, to progress civilization to distributed decision making, by insulating rights against central planning, is overwritten by Supreme Court justices with an invention that the crowd has the traditional rights of a tribal king.

In summary, federal judges say the optimal level of door kicking in is discovered by the religions and culture, the myths and lies and crowd psychology, of the community. The optimal level is stored in their minds and habits, rather than in their laws and institutions, and therefore discovered in their impulses rather than in courts (“Nor can a handful of federal judges begin to match the collective wisdom the American people possess” City of Grants Pass v. Johnson, 144 S. Ct. 2202, 2226 (2024)). Rights have no role in recording or transmitting or perceiving costs and benefits to discover this optimal

level. And a more rigid system of rights externally imposed on these organic impulses, to improve human action and increase prosperity, is unvirtuous and illegal.

Courts dislike law itself, and their role, because they are communists. Their job is much easier when they veer downhill, using a few word games to say the politically popular thing and social consensus is legal, and is what the Constitution really calls for (and if we reincarnate the primitive tribal societies from which have advanced as "common law").

16. Using Standing to Legislate

There is nothing more clearly written in the Constitution than the jurisdiction of federal courts over due process, and of states over how they pick their electors. But when an individual criminal defendant sues in federal court for due process, justices cite all kinds of unwritten psychic interests of states in criminal justice which override individual rights and federal jurisdiction. Then when Trump intervened over how Colorado picked their electors without raising any individual "liberty interest" of his own that had been violated by it, the Supreme Court said they had jurisdiction to give Trump what he wanted based on the standing of and injury to "a uniquely important national interest" (Trump v. Anderson, 144 S. Ct. 662, 670 (2024)). But when Texas sued over how Pennsylvania chose their electors resulting in the clear injury of Biden winning the election, the Supreme Court said "Texas has not demonstrated a judicially cognizable interest in the manner in which another State conducts its elections" (Texas v. Pennsylvania, US Supreme Court 220155). Supreme Court decisions are dictated by political popularity, unaffected by changing the plaintiff-accuser or written law.

The Supreme Court added "as applied to petitioners" in the question presented for Tiktok v. Garland. They certainly did not do that for Trump. The Supreme Court acts sua

sponte as a legislative body, under color of such party disputes. They don't answer clearly articulated narrow abstract questions of law that could be applied to unknown cases. They often are not even acting sua sponte like a legislative body, but more like an executive using his discretion to divine the will of the people in the immediate matter. And most cases when nobody is looking, they throw away with some garbage unpublished opinion written by an intern.

For TikTok they didn't ask 1) is a federal law narrowly tailored to foreign ownership of a business, where this requires assuming an enterprise can be separated from its owners, and 2) if the effect of a law on ownership is to silence some people who speak through the business, is that specific to the viewpoint of the people silenced or viewpoint the customers lean towards (such as the viewpoint of dissidents or "the little guy")? For Trump they didn't ask 1) do federal courts have jurisdiction to examine how states choose electors when it is not framed as equal protection or First Amendment and when they are enforcing state but not federal law, and 2) when the federal government creates a new legal interest in a certain activity such as insurrection or whether undesirables are on a state's ballot, does that exclude states from taking an interest in the same activity until Congress grants power back to them?

The Supreme Court instead asks what's the politically popular outcome, narrowly tailored for these specific cases. The ambiguity these decisions create as to how they can be applied to other cases which they are not meant to be, then creates discretion for district courts to find in these decisions, the politically convenient outcomes they need in their own cases.

Justices say the government promoting a religion, or a President serving three terms, does not directly harm you, but harms everyone equally, and so the costs to you the

individual are merely psychic. The psychic costs of these violations of the Constitution only become real when the state or collective sues to stop these wrongs. Then when an individual Trump intervened, the Supreme Court gave him what he wanted based on standing and injury not pursuant to an individual liberty interest, but a national interest. The US Attorney General did not intervene or petition against Colorado, Trump did. The Supreme Court said there was no federal law, but then interpreted Colorado's Article II powers as used pursuant to federal law. They then said federal law was interpreted incorrectly, in part because of an interest that was never written in any law in the history of the country and was rejected in Texas v. Pennsylvania.

Booker Hudson asked Scalia to create a deterrent which would protect every citizen from illegal searches. And in his opinion Scalia said the Supreme Court could create such deterrent to protect everyone, on the occasion of Booker Hudson asking for it. Scalia then chose not to do it.

The Supreme Court has no problem with whether injuries are psychic or actual or traceable by which problem they are constrained, and will quickly manufacture standing and jurisdiction, to do something politically popular. If something is politically popular, justices manufacture an interest, standing, and federal jurisdiction, then find some principle according to which they can protect that interest. Once it is accepted an injury is real (which they invent on the spot), all injuries are protected by some legal principle, standing to seek it, and jurisdiction to enforce it.

17. Mythical Virtue of the Crowd as Knowledge Institution

One of the only areas where judges have given individuals standing to seek relief in court for injuries suffered by other members of the community, and not dismissed the injury as merely psychic to the plaintiff and saying only Congress has jurisdiction to

redress it, is First Amendment cases. Judges perceive members of the community not being able to talk to each other, as more important than the other interests the Constitution protects, which other injuries are merely "psychic" when an individual rather than the State complains about them. This fits in with judges only understanding collective decision making. Speech is how the collective mind makes its decisions, and it is how judges interact with each other. Therefore injuries to speech are seen as real, not merely the mental anguish of an individual bringing a lawsuit. Protecting speech from government interference is seen as important because it is the government dictating the public perception, rather than the public perception dictating the government.

There are two very different paradigms along the spectrum of standing burden, "political surveillance" where injuries that affect a lot of people are imagined to be solved in the political process, and "relaxed" for First Amendment violations where people can complain of injuries to others (“the subject matter is committed to the surveillance of Congress, and ultimately to the political process.” United States v. Richardson, 418 U.S. 166, 179 (1974) , “the mere existence of an allegedly vague or overbroad [law] can be sufficient injury to support standing” Speech First, Inc. v. Fenves, 979 F.3d 319, 336 (5th Cir. 2020)). Political speech is politically popular, or at least those who advocate for it make themselves heard, so it is considered a real injury and given standing.

Not speaking doesn't actually hurt you any more than speaking a religion hurts someone who hears you, according to the logic of justices. The injury from not being able to shout on the corner is not "concrete". No doctor or banker could examine you the next day to tell whether you spoke or not. And your political candidate cannot be proven to have lost the election thus costing you money, because you didn't get to shout his name on the corner. Justices would say the pleasure or displeasure from speaking or not, is purely "psychic" until you can prove a particular flesh injury or wallet harm. That is what they

would say logically, if their logic was not fake sophistry to promote the will of the collective.

Justices say speaking has a real benefit to you which is not psychic or moving your lips, without needing to prove anyone paid attention. But the cost to you of the government posting the 10 commandments where the person you are speaking to can see it but you can't, is zero. If I say "become Muslim" to someone, and the government says "become Christian" to that same person when I can't hear, only one creates a non-psychic cost or benefit to me. It is inconceivable, how the cost of violating my First Amendment rights by stopping me speaking on one side or establishing a religion on the other side, could be calculated as certainly different or less concrete.

If you want to say the difference is speech restrictions affect your use of your own body, suppose the government just shuts down your Internet. Then you can shout all you want, and whether anyone hears you because they cut off your internet, is a psychic injury, meaning something you witnessed rather than something which touches your body. The effect of whether anyone on Twitter sees your "vote Biden" Tweet, is certainly less measurable or imminent than the effect of whether the executive branch is regulated by separation of powers, or is allowed to lie to juries to fix case outcomes to lock up innocent people you never met. The "concrete" cost to you of not posting "vote Biden" on Twitter because your Internet goes out for five minutes, is less measurable than the fraction of a cent you spend as a taxpayer to do something you don't like.

Being tried by a judge versus a jury doesn't directly affect your body or constrain your action. It does indirectly by whether you go to prison or not. But it's very hard for you to say it's traceable that the reason you were found guilty was because it was a judge rather than a jury, rather than that the choice of judge or jury was indifferent to whether you

were found guilty. It's not the case that the judge lying to the jury injures you, because you hear it and suffer a psychic displeasure from hearing it. So that if the judge did it behind closed doors where you didn't hear it, then the injury wouldn't exist. So this scale of whether rights are real depending on whether they touch your body or harm your wallet does not really explain rights like the right to a jury trial, and can't really be what is going on.

If you want to say speech is your own action which is restricted, then who can measure whether the actions you force on others of trying you by judge rather than jury have created a measurable impact to you? You don't know that the jury wouldn't have convicted you the same as the judge either way. A jury is other people talking about you and making a decision, you would seem to not have an interest to demand they do it one way or another, if you cannot prove the method of decision directly affected you. But being tried by a judge rather than a jury trial is (presumably) curable by a petition to have a jury trial, even if you cannot prove the outcome would be different.

There is nothing to protect or explain the right to a jury trial, in the primitive logic of "concrete and particularized" harms to "interests". Jury trials and the right to bear arms are treated as interests (such as when judges decide what the jury can hear either by what testimony is allowed, or whether a process violation justifies a new jury trial). And speech seems to be treated like a right only because it is considered a very important interest. We cannot find explanations for these differences in rights interpretations in history, any more than we can explain the differences using law or the logic presented. The only way we can explain these difference in rights interpretations, is by applying the logic that justices like Scalia value the collective will enacted by the executive branch, and don't perceive much real value for other rights.

Judges see the benefit of speaking in a crowd as more concrete (more understandable to them) than the benefit of not having the government speak religion in that crowd. And while judges recognize your right to a jury trial, they tend to slide toward replacing the jury decision with the decision made by the crowd. Justices protect speech because it is the manifestation of and way to measure what is popular. So rights are realigned to the pole of what is popular, rather than the pole of stopping the government harming people, or harming them in a shortsighted or irrational or destructive manner which rights improve upon.

All these rights have one thing in common. They protect you from the government harming you in ways it historically did, and are real to the extent they achieve that affect. The right to free speech is the right against government stopping you airing grievances about government harming you. The First Amendment was not because the crowd figures out great things, but because the government controlling speech does bad things. This improves decision making in society to increase prosperity, by using distributed decision making rather than a collective or monarch deciding things. But the key to distributed decision making, and how it appears at the moment it happens, is it stops the executive branch from deciding whom to harm. But judges begin by assuming the executive branch enacting the whim of the crowd is virtuous. They are then forced to try to find an interest in your own joy or displeasure or something, that makes a right valid or not.

A jury rather than a judge, or a unanimous jury rather than the whim of the 51% majority or dominant social faction, stops the government harming you based on the immediate whim of the crowd rather than according to law. This is only a personal or public benefit, if you assume the crowd is evil or inclined to irrational violence against their fellow man. If you ignore that the executive branch is evil or corrupted by the whims of

the majority (“we have chosen to rely on the integrity of government agents and prosecutors not to introduce untrustworthy evidence into the system,” U.S. v. Bernal-Obeso, 989 F.2d 331, 335 (9th Cir. 1993)), then there is no need for the right to a jury trial. The executive branch can do what the crowd wants without needing the middleman of laws and courts. If you ignore that the crowd is not as good a decision maker of court outcomes as measuring fact against law, then there is no need for a jury trial.

If facts measured against law to decide who is guilty makes more beneficial decisions for society than the whim of the majority in the town square does, then having you tried by a jury rather than by a judge or by the executive branch fixing the outcome with lies, is a public interest not a personal one. Without needing to have any injury or benefit to you as individual defendant, which injury is directly traceable or traced to having a judge versus a jury. Someone who is tried by a lynch mob is often guilty, and someone who is freed when the public demands a pardon, is worse off with a jury trial than the with public deciding. While the public might be better off using a jury, rather than deciding whom to imprison and pardon based on celebrity endorsements and misinformation. The fact that a person who is convicted by judge will then petition for his right to a jury trial, does not itself prove that strangers being tried by juries is an individual rather than a public interest. People who are found not guilty by judges will not then demand their right to a trial by jury, but that does not prove that the public didn't lose out from whatever local political convenience or corruption decided the outcome.

So the original logical rule according to which all rights could be understood to make sense, is that they protect both individuals and society from the worst tendencies of man, represented by the whims of the 51% majority enacted by the executive branch. And they create distributed decision making. Whereas the new pole based on which all rights

are logically aligned is to serve the conscious political whim of the 51% majority. Plus wallet injuries. And all these intermediate steps used by judges to shift the rights, by saying they are psychic plus exceptions for wallet injuries or whatever, is all just little adjustments which sum up to this realignment, regardless of what logic is offered to explain each adjustment. Courts had not much choice but to project their own childish understanding of the world onto rights.

Nobody says courts shouldn't consider First Amendment injuries, because the injuries require multiple participants, or the injuries affect so many people with so little to each participant that they can be fixed at the ballot box, by electing a different executive or passing a law. Public speech is the thought process of the collective and tangible manifestation of their will. Whereas executive action and laws passed by Congress are only responses to or representations of this collective consciousness. Judges are sensitive to government injuring the thought process of the collective whose impulses government is supposed to respond to. Judges relax standing for the First Amendment because they like the collective decision process, not because of whatever reason judges say is the justification for considering First Amendment cases while dismissing other rights.

18. Using Perjury to Move Fact-Finding to Political Speech

It is likely that justices see someone's right to not "be compelled in any criminal case to be a witness against himself" as a psychic injury to the individual, something like "offended observer standing". Like making your wife testify against you is aesthetically offensive. When at the same time there is a public interest in hearing what you have to say, and forcing you to say it. (“Coerced testimony is testimony that a witness is forced by improper means to give” Fields v. Wharrie, 740 F.3d 1107, 1110 (7th Cir. 2014))

Having never been outside a classroom much less in chains, justices don't realize that

when people in chains testify, it is the executive branch selecting testimony and therefore case outcomes. People in chains nearly always say what they think the key-holder wants them to say. Which is a cost to the public, relative to fact being measured against written law, without fact being influenced by political agendas or social consensus. It is a cost to the public, the same as government encouraging and influencing speech in the public square is a cost. Certainly they would agree that putting you in handcuffs during a political protest, would put a "chill" on your speech. But when the executive branch selects speech by having people in custody testify in criminal court, it is done in service of psychic benefit to the discovered public consensus, by having them testify to what is already the public consensus, after immunizing the government to lie to the public. Whereas the law's interest, and the innocent defendant's interest, in having people do something other than say what the executive branch wants them to say, is weighed as an unpopular and therefore distasteful individual interest.

Allowing jailhouse confession witnesses to recite popular gossip in courts, to fix the jury decision by inputting lies and achieve the politically expedient outcome, is warmly perceived by justices as like the opposite of a First Amendment violation. It allows the animal speech of the crowd in the public square to be input into the decisions of juries, and thereby into the decisions of government. Justices are much less libertarian about speech informing the jury, when it comes to curing the bias of jurors who imagine state actors who lie would be punished and deterred, by telling the jury the true fact that state witnesses are allowed to lie and always only rewarded for it. Because that information reflects the minority interest of real injuries to a handful of defendants, whereas letting state witnesses lie reflects the dominant social beliefs of the crowd. Justices see letting defendants tell juries that state witnesses are allowed to lie, as government interfering by inserting individual rights into the will of the crowd. Judges carry on the ancient charade that hearsay produced with coercion by the executive branch might really be an honest

confession, to give legal color to overwriting jury trials with Marxism.

The problem of witness reliability is then also shifted from being discovered in courts to being discovered in the town square. Where one side promotes a religion that cops are good people (who either don't lie or achieve a good outcome by lying). And certainly we believe the people we elected because we believe them. And the other side is forced to disseminate the information that cops and public officials lie without ever being penalized for it rather rewarded at the ballot box (where this achieves a bad outcome while tricking the voters, or is approved by voters to subvert courts which is a bad idea). In this manner letting the government lie in court, is simply reverting to natural processes by letting the crowd have their way with witch trials. It creates a court process which basically answers the question "Whom would people want to lock up if there were no law or rights?" Justices ultimately prefer First Amendment or crowd social processes rather than distributed court decision processes measuring fact against law, to process information, discover preferences, and decide whom to put in prison. If the wrong people are going to prison, it is ultimately subject to "political surveillance".

The utopian perception of crowd decision-making is illustrated in people's reaction when they find out that 70% of wrongful convictions in the United States overturned by surprise DNA evidence, are the result of incorrect eyewitness identifications. Their immediate reaction is not "Tell jurors that!" No, they would leave jurors clueless for not even perceiving a role for jurors, when we can solve cases by watching TV news. People's immediate reaction is to somehow stop cops encouraging witnesses to lie, as if that is possible or even the problem. As if cops are creating misidentifications for lack of knowledge, rather than because they have an incentive to win cases or to convict the people they are suspicious of, and they know giving witnesses chances to misidentify people serves this incentive. I am sure the cop and witness are going to say "I am not

really sure" to comply with the law.

The problem of wrongful convictions, does not result from the fact that people can't remember what strangers look like after seeing them for a second. It results from not giving jurors the information actually available. And instead, just telling jurors whom the crowd has decided is guilty. People think about it as if the person who reads that misidentification statistic sitting in his armchair is the one who determines guilt and what police do, and our solution is to get together with these good cops and witnesses who all want the same things, and talk about it and figure out who is really guilty, before sending it to the jury. The real problem is that naive jurors are never told the empirical unreliability of the process, revealed in the number of eyewitness misidentification convictions overturned. Rather, hiding these known facts is used as a trick to exploit naive jurors to move the decision to the executive branch and crowd. Eyewitness identifications are always going to be wrong, and that can never be fixed to where jurors should blindly accept them.

The real solution is to transmit this expert knowledge about the unreliability of eyewitness identifications, and testimony about the identification process used in the particular case, to the actual decision makers, the jurors. But that would be breaking the religious taboo against saying "cops lie". And that would be leaving the decision to use actual information to the jurors, rather than try to bring our minds together to fix the outcome by establishing who is guilty before it gets to the jurors, which is impossible and misguided to think cops would do. All you have to do is tell jurors eyewitness identifications have historically empirically been proven to be unreliable, when they just see someone run past or whatever. But politically that's not acceptable, because that deprives the crowd of finding out who is guilty and then telling the jury who is guilty to get the right outcome. You might think the unreliability would be obvious to jurors. But

the whole theater is allowed to be used to mislead jurors away from the obvious, to get the outcome good people want. No witness will be prosecuted for lying that he saw the criminal a little longer than he did, which lie he will be given an incentive to tell.

But according to "political surveillance" we can fix witness misidentification when we find out there are wrongful convictions, by using legislation to improve discovery of guilt by the executive branch before it gets to the jury. Maybe even improve the minds of witnesses, such as has been done using coercion or hypnosis or dreams. And nobody will ever say openly much less to the jury "a lot of times crime victims don't really know what the perpetrator looked like, but they are encouraged to pretend they do". People who complain about wrongful convictions never try to fix the jury trial by telling jurors the truth to decide without any corrupt incentives. Everything else is utopian hippie nonsense giving power to the executive branch to lock up whomever the public has been told is guilty.

They might as well try to solve the problem that when police ask speeders how fast they were going, the speeders always lie and say they were going the speed limit. Maybe pass a law that speedometers have to be really big, to make sure people don't misidentify their own speed. This problem is already fixed by the finder of fact considering the reliability of the witness, by saying this person has an incentive to lie and say he was going the speed limit, does the cop have an incentive or penalty for lying? Does the witness, the cop, the driver, the judge, the unanimous jury have an incentive to create one outcome over another? We can discover that by looking at Diaz information about whether witnesses in the same circumstance were found to have lied in the past (and whether they were then prosecuted). That's reliability information that is supposed to be considered by the finder of fact, the jury.

The mission of the Innocence Project is to have some social process other than the jury use one information set over another information set, rather than have the jury use an information set. Not caring that the social process is always going to create a politically influenced outcome rather than measure fact against law, but rather playing the social and political game. They don't mind proving innocence without a jury trial, rather than obtaining new jury trials. The Innocence Project is in the business of creating a psychic cost to the collective on Twitter, which will never fix the psychic perceptions of the crowd being used to decide guilt in the next case. The crowd always thinks they are already curing the problem of wrongful convictions, when they tell jurors whom to convict. The problem jury trials and laws against perjury solve, is creating incentives and penalties in the role of each actor, to create a decision maker with information and incentives to measure fact against law. The problem the government is paid for solving, is government looking good.

Framing people for crimes hurts the individual without anybody knowing, whereas stopping speech hurts the collective, whose consensus perceptions created by speech are required to make things real. If the crowd does not know people are innocent, then justices don't perceive that there is any real cost to putting them in prison, regardless of what the law actually calls for. Quite the opposite, some sort of collective mental anguish from the possibility it could be discovered 10 years later that the real murderer got away, is serious enough to outweigh and immunize a state against federal rights written in the Constitution. “Congress has chosen finality over error correction” (Jones v. Hendrix, 143 S. Ct. 1857, 1869 (2023)). This weighting is not an inevitable tragedy to ration resources but, according to judges, because finding out that they are wrong is a psychic injury to the crowd, when it is initiated by individuals not by elected officials. Justices say the proper remedy for lying to jurors is for the executive branch to pardon people, if you can convince the crowd the convict is innocent.

Prosecutors producing lies to fix criminal-case outcomes according to political convenience, is a cost and prospective cost to the rights of individuals so attacked, and to the right to legal-judicial rather than political regulation of the executive branch, created by the separation of powers. But it is a psychic benefit to the collective, who sees evidence being produced against the witches they want convicted. Rewarding rather than deterring or acknowledging or considering perjury, to enable subverting courts with lies, is a violation of due process and the separation of powers. It replaces the designed decision maker, the court or jury, with a political decision based on the social forces and factors the lawyers and other local actors are subject to. But because this is popular - the decisions are more popular than real legal decisions would be - it is therefore a psychic value to the collective, Justice Scalia would say it is not a real injury to any plaintiff who could complain about it.

19. Repealing Separation of Powers with Perjury

There are two easy ways for the executive branch to escape laws written by the legislature to do what the crowd wants. The first way is immunity, which prevents anyone else from petitioning to enforce the laws on them. Immunity is just the Supreme Court saying the case-specific values discovered in elections are more important than the general values previously written in law. The second way is using lies, to give the finder of fact a legal excuse to give the crowd what they want. Courts don't enforce a due process right that state witness perjury be prosecuted rather than rewarded, to deter it rather than let the crowd reward it in elections. Courts then don't enforce a due process right that the finder of fact consider the reality that state witnesses are rewarded rather than deterred for perjury. Appeals courts look the other way on the discretion of lower courts to accept lies as not an error of law. Case law promotes allowing or blocking testimony based on no logical or honest standards, but in proportion as it is convenient

to the state. Such as felons are assumed to be telling the truth when they are let out of prison for saying what the state wants them to say, but then anything they say outside that context courts have legal cover to discard. And flimsy scientific theories of guilt are allowed to be cultivated by the state and presented as rock solid.

States use the legal discretion of the executive branch (and the lack of enforcement of any countervailing due process rights and favorable treatment of their liars in case law) to 1) reward and not prosecute state-witness perjury, and 2) have the finder of fact ignore or not consider their policy of doing this. They allow the finder of fact to ignore that state witnesses are allowed to lie (the admission of testimony according to political convenience rather than reliability), by putting on a charade that it is individual credibility not the credibility of the process for rewarding and deterring perjury being weighed, and by not curing a religious bias to pretend that the state actually deters perjury and prosecutors and cops are therefore regulated to be honest. State actors in criminal justice practice this policy without ever directly saying this is what they are doing, and rather prohibiting lawyers saying it in public. They prohibit prosecutors from being examined about their investigative process for coercing witness and its empirical results. And they don't let any defense Diaz expert talk about the process for coercing witnesses or present past records of state witnesses lying without ever being punished, as extrinsic Brady or Kyles disclosures.

States prop up this fake reality and trick, where the actual reliability of witnesses admitted is disconnected from the politically contrived calculated reliability used at the finder of fact (e.g. jailhouse confession witnesses), by not making any record of all the instances of state-witness perjury that have been caught but never prosecuted. Someone making a central record of lies is prerequisite to this information being presented by a Diaz expert, and prerequisite to judges being forced to use it rather than contrive their

own politically expedient schedule of witness reliability. Courts instead sweep lies under the rug buried in local cases and even alter and erase transcripts. They cut deals with defense lawyers who are not ethically, politically, and financially obligated to take them, rather than demand state-witness perjury be examined in court or recorded. No lawyer will demand to use information which is not readily available, which would result in him never getting a plea bargain again and going broke. And the state is not forced to produce a database of something lawyers have not demanded a right to use.

Within these rules, the executive branch can use a standard process of cultivating witness testimony captured by the influences of social consensus and politics, to get popular gossip from the town square through the courtroom door in the mouths of witnesses (including scientific experts), and to exclude politically inconvenient testimony as unreliable using fake reasons (which shameless discretion is accepted with a straight face out of political convenience or "pragmatic"), to fix court outcomes with lies. And by this process of fixing case outcomes with fact inputs contrived to arrive at the politically convenient outcome - by using court outcomes dictated by lies and immunity rather than fact and law - the executive branch can brush off being regulated by facts and courts and laws, to do whatever is most politically expedient and instead be totally regulated by local political incentives. Lawyers who prosper in proportion to deal-making and elected local judges are eager accomplices. And Supreme Court justices call this local corruption a virtuous decision process, because it gives power exclusively to the executive branch under influence of the virtuous local voter rather than to law.

In this manner, any government employee can do anything. And then go into court and the local judge will say "It didn't really happen like that, did it? No, it happened this other way. What you did was morally justified according to the social consensus." And

the appeals court will see no error of law, only the names of their political peers balanced against some nobody calling them liars. Some nobody whom local papers have been immunized to smear as an undesirable scofflaw without needing a single actual witness (“there were certain discrepancies between what appeared in the affidavit and what was reported... The press has no duty to go behind statements made at official proceedings and determine their accuracy before releasing them. ” Ortega v. Post-Newsweek Stations, 510 So. 2d 972, 976 (Fla. Dist. Ct. App. 1987)).

States using discretion to not prosecute state-witness perjury subverts court outcomes to political convenience, by producing and accepting testimony in proportion to political convenience, rather than deciding court outcomes by reliably discovering facts and measuring them against law. They usurp the decisions of courts the same as usurping the private decisions of businesses, with the impulses of the crowd in the public square. This abandons the system by which established preferences are conveyed as incentives to individual behavior by laws, so that such distributed decisions are usurped by the conscious will of the collective. It does this the same as Marxism abandons the price system, and for the same reasons, and with the same quality of results.

The local actors claiming to be enacting the will of the collective or under color of this virtuous mandate, ultimately act according to corrupt local incentives and information games, the same as local factory managers in the USSR did. Neither local voters nor higher courts have much idea what really happens behind closed doors in individual cases. Just like central planners have an information disadvantage compared to local factory managers, and consumer preferences and resource costs are not considered, giving wealth to local corruption in centrally-planned economies. This corruption is allowed to operate in local governments, because Supreme Court justices are utopian communists to the extent they think about economics at all. Which is the natural state of

children not specifically educated to prevent this.

So our very form of government, where the executive branch is constrained by the legislature, and laws convey established preferences as incentives to individual actors, is subverted by letting the executive branch brush off courts with lies. This is justified under color of obtaining virtuous popular outcomes. But often just enables corrupt local interests to be served, most of the time when the public is not even looking.

20. Cultural Marxism of The Federalist Society

Real Federalists like Madison designed a system of government to protect private landowners and religions from monarchs in an agricultural society. It was like a Magna Carta that also protected religious minorities, to enable the prosperity of a federation of diverse factions without conflict or a king. The great wisdom of their plan did not completely anticipate new problems that would come from the novel and different incentives executive-branch officers would face in a democracy, with separate and competing supervisory signals coming from laws versus elections, after Marbury made clear that the law and political discretion were two different things that had been separated. This led to a diverse assortment of petitions and process requirements by which people might confine others to following the law.

The government conceived by our Founders was also not designed faced with the new problem that collectives would want to manage factories for the popularly perceived public benefit, rather than have factories supervised by the price system. Legal academics with different life experience compared to the Founders, were then faced with interpreting rights in the industrial age based on the philosophy of the day, including utopian fads involving central planning. The government also did not originally protect the average person from his neighbors very well, so that like today local courts were

corrupt and filled with perjury to ignore the lofty ideals of law. The Reconstruction Amendments then created new checks in federal courts, to protect individual rights from the will of the dominant local collective usurping courts and law, to protect individual criminal process or "civil" rights the same as property.

Then the USSR came along, and today's new "federalists" feared the federal government as a similar arm of industrial control in the United States, by the discretion of federal judges to reinvent property rights weighing them against more popular interests (Williamson v. Lee Optical). This fear was perverted into seeing federal court jurisdiction as the enemy of freedom and rights, rather than a check to create them. They saw the remedy as having more decisions made by local voters, whose cultural values would conserve the ideas of rights that had been written out of laws by the popular fads of federal judges. This was a form of cultural Marxism, a set of prejudices designed to undermine the rule of courts and law and rights, substituting local collective control (of outcomes rather than rules) that was traditional to primitive agricultural societies from which we had progressed.

Instead of reforming federal courts to protect property rights to protect businesses from federal courts, by educating judges about what rights and distributed decision making are, they simply fought to curtail the jurisdiction of federal courts, and to shift more things to local executive-branch discretion rather than law. They formed a coalition with white nationalist socialists, who wanted to remove federal courts as a check protecting civil rights. They reduced federal courts as a check on the executive branch protecting civil rights, while obtaining protection for property and gun rights or whatever traditional rights they valued, from the political surveillance of local voters.

But a state collective is not inherently more virtuous than the national collective (though

natural selection may discover a more virtuous subset). And nor are local voters inherently more wise and virtuous than national voters and academic fads. Checks, separation of powers, and distributed decision making, are virtuous. A state-sized government, such as Florida, California, Cuba, or Sparta, is not inherently more virtuous than a national government. It becomes more virtuous by having a more advanced system of laws and checks, including checks from federal courts. The correct remedy to courts doing crazy things is not removing separation of powers and expecting state voters to have virtuous whims, but cultivating courts to interpret rights and law correctly.

Such as by understanding distributed rather than collective decision making in law the same as in commerce. And by enforcing due process rights to deterring state-witness perjury with prosecution, and having the finder of fact consider real empirical science on whether perjury is rewarded or deterred, rather than religious propaganda. And by courts not always writing over what the legislature wanted done in prospective future cases, with case law freeing the executive branch to do what the people actually want done in specific cases.

21. Overwriting Political Currents onto Legislation Using Jurisdiction

Executive-branch actors are supposed to operate with discretion and under political influence, but constrained within boundaries defined by law. When it comes to infringing rights such as punishing criminals, they are supposed to have no political discretion to do it. All criminal justice has to be approved by courts. The state and the victims of crime are presented as having these important interests in justice and finality or whatever. But once in court, the only real interest the state has is that its laws are enforced. The state is not capable of perceiving or embodying interests of the collective to punish the individual, not prescribed in written law.

The way community interests are supposed to become relevant to courts and input into executive actions in criminal justice, is by being written into law by legislators, not by being perceived as politically popular and written into law by judges. It is hard to even imagine how the interest of the collective to lock up innocent people for psychic benefits, could be written as an actual law by the legislature. But justices like Scalia are able to invent and find such psychic interests and write them over the law, at the same times as stripping individuals of interests actually written in law, when those interests are injured.

Instead of legislators writing these punishments in law, they just say innocent people are not allowed to seek or obtain relief in court. To deprive individuals of venue in court to have their rights protected. They cannot write a law that says innocent people can be locked up to give the community psychic benefits. But they can say an individual is not allowed a process to demand his rights in court, because of the psychic interest of the community in "finality". Or they can say that a defense lawyer is not allowed to tell the jury that the state rewards jailhouse confession witnesses for lying. Judges are given wide discretion to accept or even invent facts, to refuse to discover facts, as excuses to prevent a jury looking at anything. Written rights, are replaced with injuries or psychic interests given standing and process to seek relief, to determine what courts actually enforce. Or in other words, with what is popular, as defined by the action of the executive, who is then given immunity, including the immunity to lie in court.

Courts invent these other interests, to give themselves discretion to not enforce the law. They cannot get the collective will through the door in actual written laws, such as the collective will to lock up a person who has not committed a crime, so they do it in processes denying a hearing, and in case law involving jurisdiction. This is different

from not taking cases to ration resources. These are interests invented to give courts discretion to do what is popular, not discretion to ration resources. It is then judges who are able to recognize the interest of finality, as overriding the right of innocent people to have a venue to seek redress in court. So violating rights in favor of a psychic scale of values not actually written in law, is laundered into an indirect process result when they simply refuse to hear your petition, not a direct statement in law.

The actual schedule of rights you are left with, is determined by the jurisdiction of courts to protect them, the standing of individuals to seek protection, and the process by which court outcomes are determined. It is not an exaggeration to say that after case law has overlaid standing and process onto rights, the rights you actually have could be the complete opposite of the rights written in law by the legislature. But nor is this real, realized schedule of rights very complicated. When all the complicated written rights have been fed into all the complicated case law and process, it is designed to return us to simply whatever is popular (keeping in mind the usual imperfection from government from corruption). So you are left with a right against the witch mob, to whatever favor you can win or deal to obtain, or to whatever you can promote to the public on Twitter.

Justices adjust the law to recognize injuries perceived by the crowd, and dismiss real injuries to the individual, by giving jurisdiction and standing to one over the other. Political processes can discover such popular injuries without needing courts, which are only needed to recognize injuries to the individual. The individual asks for enforcement of the law when it is his own interest, the executive branch asks for enforcement of the law when it will help them get elected. Then courts invent that the will of the executive branch is the law, as the discovered interest of the crowd, rather than the law being the discovered interest of the crowd, which law can be brought to court by individuals against the executive branch.

When you erase the details of all the rights and case law as factors which cancel each other out, the product of this intellectual exercise boils down to courts abdicating their enforcement of rights as a check on the will of the crowd being enacted by the executive branch. No individual has standing to complain about it, because standing is used by courts to enact their agenda, rather than courts being used by standing to enforce written rights. The executive branch won't complain about it, and the legislature is not going to fix it because they already did and were overwritten by Marxist judges like Scalia and told this religion is the real Constitution.

22. Abstract Dynamics of Legislation and Case Law

There are two systems for deciding case outcomes, separation of powers and political influence. The two mechanisms for changing the system for how outcomes are decided is to change laws democratically and to argue in courts during individual cases for changes to the rules.

People like systems for producing outcomes, to the extent they like outcomes. The majority describes the outcome they think they want, as best they can in advance through laws. And the laws design a system of separation of powers, to make sure courts produce the outcome in future cases which legislators have told courts they want. Then when there is an actual case, the majority may decide they want a different outcome, based on the information they actually have which may be inaccurate. So the executive branch will sue to reinterpret the laws and the system for deciding, to get the specific case outcome the voter now thinks he wants in the current case.

For example, we want people to be able to sue cops, but not for this jerk to sue this party member cop. I want a jury trial if I am ever accused, but we all know this person in the

case on TV is guilty.

So people tell courts the outcome they want through laws, seeming to not realize they will have much stronger opinions about what they actually want once there is an actual case. Then they will tell courts what they really want through the executive branch, and ask the courts to ignore what they previously said in law. This is a silly exercise, that always ends up just telling courts to give the executive branch whatever we want.

The easiest change in rules, is for the executive branch to ask courts to simply ignore whatever law was written in the past and give the executive branch whatever they want in general. So the voters ask courts for outcomes twice, first through the legislature in advance, and then through the executive branch for what they actually want in each case. The best way to reconcile the laws they wrote in the past with what they now want, is to immunize the executive branch to do whatever they want, and allow lies to get whatever outcome they want within the law.

In every case where the separation of powers produces an unpopular political outcome, the majority of people will complain about the system. In every case the executive branch will sue to change how outcomes are decided, to produce the politically popular outcome. There is never an individual current case where the majority will clamor for separation of powers rather than their own influence. So the people will never ask to change the system to have more separation of powers by appealing during an individual case, but will only ask for more separation of powers through political influence by passing laws.

The majority will prefer the separation of powers for future prospective cases, because law is how they tell courts how they want those future cases to be decided. For the

majority to sue for the separation of powers as a collective to be recognized by the Supreme Court, they would have to sue through the executive branch. The executive branch will not sue for the separation of powers. So the majority will generally try to change the system toward separation of powers through the legislature.

The legislature will design the two systems legal-judicial and political to produce different results, and then courts will overlay their own rules so that they produce the same political result. The legislature will design laws so that the separation of powers produces court outcomes that go against political influence and popularity. In individual cases the executive branch will ask courts to change the system so that courts produce the same result as what is popular.

People ask for separation of powers in the legislature, and for arbitrary executive power in court. So naturally law and rights, and case law overlaid on that to produce actual outcomes in real cases, will move in opposite directions. Law will say you have rights, case law will say the executive branch can do whatever they want.

23. Mechanisms for Individuals to Protect Rights

An individual also has opportunity to change state laws and the system of process rights and case law, by suing in federal court.

Normally a plaintiff brings facts to court demanding monetary relief within the undisputed law based on those facts, and maybe an injunction based on personal circumstances. But in most cases disputes of what the law actually is, or should be, also come up. Some cases are primarily a dispute of law and have a hope to change the system by changing the law. You might call this a fact dispute versus a dispute of the interpretation of law.

An individual has three types of injuries he can seek relief for in federal court, personal, street law, and systemic involving process law or case law. An individual has four kinds of standing for injuries he can seek relief for, realized versus solely prospective, and solely private versus shared.

Street law would be like if the state passed a law against speaking in public. If they arrest you, you can fight the law by appealing the law as unconstitutional, whether this would make it unconstitutional for your particular circumstances or for everyone. Or you can sue to block the law before you are arrested, which would generally be an injury shared with a lot of people like you. Everybody knows about suing to block unconstitutional laws passed by the legislature, there is not much interesting about it (except the silly 11th Amendment overlay where justices invent that you have to enjoin particular officers not the state).

Street law can also involve an unconstitutional state law where the state decides to pay the annual budget of the Catholic church and use state money to advertise their church services. If you can't prove this is what inspired the guy who punched you at the abortion clinic, then no harm no foul. This is where rights being translated to psychic interests and injuries comes in, so that federal courts can say this is not an injury to you.

Since the Supreme Court only takes cases as an opportunity to invent their own "interests" in place of actual rights (or when politically forced to), you are not going to be able to fix the system by demanding the Supreme Court reverse themselves about what is an injury, using the opportunity of your particular case. If they already did what you are hoping to undo, they are unlikely to take your case at all unless it is really popular, by the particular circumstances of your case and by public promotion of your

cause. In which case the Supreme Court will still try to make a narrow ruling specific to your case. Such as if some crazy legislature decided to do an unpopular thing by promoting Muslims somehow.

You might have a better chance to improve the system by which rights are translated to interests, by suing for prospective injuries somehow, so that the focus is on the problems in federal case law without there being a popular public interest in the immediate case. So by using a prospective injury, you are asking more for something like legislation, without being opposed by a public interest to overwrite the legislation in the circumstances of an actual case. When it is a prospective injury, you could say let's assume the government is financing Muslims not Christians. In this manner, you are able to get something that reverts back closer to saying that government financing any religion violates your rights.

Your chance of suing to change how courts measure standing for speech to get an outcome in a particular case is pretty much either a) popular and case-specific, or b) zero. But maybe you could sue in advance for a process change, that would give you standing to ask for relief in future prospective rights violations.

Personal injuries are generally solely private, but can be realized or prospective. These are injuries unique to you. Like this cop punched me, even though state law says he can't, and the same cop is likely to punch me again because I talked to his wife. It is most likely if it is personal the injury will already be realized, rather than somehow knowing a particular cop will punch you if he has not already threatened you. Suing for a realized injury gives you venue to complain within the current system of laws, and also to complain about the system in ways that affect multiple people. Like "this cop punched me and lied about it, and also I appeal the case law that says judges can ignore cops

lying to dismiss my case".

As a practical matter you can't complain about the case law to the Supreme Court for realized injuries. The legislature has already written rights which the Supreme Court overwrote. They wrote the case law specifically to overturn what the legislature wrote, in cases just like yours. The immediate popular will is never to enforce rights. They are not going to overturn case law with a particular cop standing in front of them, unless you are really popular and the cop is really unpopular. Then they will design a narrow rule for your case. They are not going use the occasion of your injury to make it easier to go after cops lying in general, just because you asked for it.

So an important way for an individual to petition for his rights, is prospective complaints about the system not particular to a realized injury, which prospective injuries are generally shared with other people. The state has already passed a law that the speed limit is 40, and a law against perjury that says cops can't lie to say you were driving faster than you were. And this law has already been overturned by state case law that says a court believes a cop over you, and says the fact that the state never prosecutes cops who are caught lying is not considered or even spoken about. And Congress has already passed 42 USC 1983 to address this by deterring and redressing states lying about you. And federal case law has already repealed 42 USC 1983, with pleading standards that require things like proving a cop you never met lied about what he saw at his own vantage point, but without discovery or making the cop testify as witness, and without your own statements being accepted as true or plausible.

So you have to sue in advance saying cops being rewarded rather than prosecuted for lying, to the extent this makes a lot of drug arrests, and then they dismiss tickets rather than produce Brady information when cops are caught lying, means I am likely to be

pulled over when I wasn't speeding. And even if I am able to prove the cop lied and get the ticket thrown out, I have already suffered an injury. So the state needs to change the law to create an independent institution to deter cops by investigating and prosecuting them when they are caught lying in proportion as it happens, not in proportion to political convenience. And when cops are caught lying it needs to be recorded and used in future court cases. And state judges need to be compelled to consider this data, and the extent to which cops are rewarded not deterred for lying, when considering speeding tickets.

So that if someone can prove it seemed like the cop thought the suspect was in the wrong neighborhood, or the cop asked to search the car completely out of the blue, the cop probably lied to harass you and the ticket gets thrown out. And federal courts need to consider that cops are often lying because they are rewarded not deterred, and make it easier to get to discovery to prove cops are lying, as a deterrent to cops lying. Cops using traffic laws to investigate and search people, and being rewarded for lying to do it, creates a process for searching people without probable cause which is a prospective injury to an individual. Viewed in a Nieves v. Bartlett context, cops openly saying they select and create traffic stops to finds drugs, makes it likely a cop would not pull you over for speeding but only did it for the opportunity to look inside your car.

This is a prospective injury shared with a lot of people, but which is not subject to political surveillance because voters want cops to be able to lie to pull over suspicious people. And the individual complaint seeks to overturn case law, which case law federal courts already wrote to overturn a right that is already protected in state and federal law, in cases just like yours. So you are not bringing facts within current law. You are suing to enjoin a process, to change the system, to protect the rights of a lot of people, whose rights have already been protected by the legislature, but will not likely be protected in

individual court cases, and who will have already suffered injury by the time they ask to change the system in an individual case.

So the legislatures already fixed the system with laws, the courts already created a process to make the laws irrelevant, the executive branch will never fix the system in court, it is therefore not subject to political surveillance or a collective lawsuit by the government, and you will already have suffered an injury and face a political impossibility trying to fix the system with a realized injury in an individual case. Therefore an individual prospective lawsuit is the only means to fix the system to enjoy shared rights passed in the legislature.

So in summary, an individual has two avenues to protect his rights, 1) suing within the current system for a case outcome based on a set of facts while asking within the current case to change the system, and 2) suing to change the system. Given a realized private injury he can sue for relief the system currently provides, and appeal the law to change the system. Absent a realized injury, he can sue for changes to the system to prevent a prospective injury.

There are particular difficulties when an individual wants to sue for rights he already has against unconstitutional laws, but the courts have already overwritten those rights with their own inventions. There are particular problems with realized injuries, since the Supreme Court is not going to change the law at the expense of a popular political mascot like a cop or state legislator standing right in front of them as defendant. There are particular problems with prospective injuries being called psychic or shared, and therefore subject to executive-branch discretion under political surveillance. The effect is the individual has standing to complain about injuries he has suffered, within the system of remedies the Supreme Court has given him. But the individual has no venue to

complain about the Supreme Court's corruption of the system and the corrupt outcomes resulting from it, not to the legislature, not to the executive branch, and not in court, where the legislature has already tried to fix this by writing a law which the Supreme Court erased.

Justices like Scalia would prefer to protect their scam, by only giving private standing to grievances about individual court outcomes by which they are affected, not to prospective grievances about the system of government which produces popular or unpopular court outcomes. An individual can complain about outcomes within the process the Supreme Court has created, but has no prospects to complain to the Supreme Court about the process they have created. Like "this cop lied, and also I appeal the case law that says judges can ignore cops lying".

24. The Individual Right to Separation of Powers

People are just molecules, and all values and harms to them are simply aesthetic or artistic preferences for one set of molecules over another. Once we accept that we live for additional values evolved on top of that, then all harms to those values are equally real.

Two things are certain, 1) the separation of powers by which an individual's preferences are communicated into actions through laws is an individual interest that suffers concrete harm (such as if he is forced to live in a declining lawless society or just next door to a murderer), and 2) the executive branch is not going to based on political whims enforce the separation of powers. So we have an interest created in law that is not going to be enforced by the executive branch. The executive branch at least some of the time is going to want to do what is politically popular in the moment, even when there are laws saying something else should be done. A society cannot be governed by preferences

discovered in the town square, but Scalia would say it can be (“Nor can a handful of federal judges begin to match the collective wisdom the American people possess” City of Grants Pass v. Johnson, 144 S. Ct. 2202, 2226 (2024)).

The interest at that moment, in doing what the law says which is politically unpopular, that politically unpopular thing which the law says to do, is a minority interest. Even though that interest may be shared by multiple individuals, it's real life, with real costs creating real injury. Laws are not passed just to please us. Rather, protecting let's say bankers or businessmen from having their windows smashed in by a mob, is a real interest of a person in the survival of his civilization as much as in eating bread.

These other people may want to protect their rights through political influence, not through laws imposed through courts checking political influence, chasing a mirage. So an individual has to complain about prospective injuries which he and many other people could suffer equally, if those others are not going to complain about the loss of the system of government created in our Constitution. Or others may want witch trials and war, and would benefit from having their impulses mitigated by separation of powers. But the executive branch will petition to lead them into these things, checked only by the structure of the Constitution which interest someone must petition for. This undermines our form of government, but this is an interest to a plaintiff as a minority, or to whoever would be represented by the legal-judicial rather than political process or perceives they would be (even if it benefits everyone including people who imagine they would benefit from central economic planning or removing jury trials).

And if there is something stopping those people whose windows are smashed in from suing, whether a federal pleading rule or the discretion of the executive branch to use lies in court, an individual has an interest that those process problems subverting the

separation of powers be cured. An individual has a concrete interest in the separation of powers which is necessary to conserve his civilization. He need only prove there is benefit from separation of powers, and harm from subverting the separation of powers, to petition for cures.

In a capitalist economy, an individual has an interest that complete strangers not be harmed by the executive branch, based on primitive collective impulses. Which is why this interest is written in law, and why we haven't been displaced by a civilization that doesn't have these laws. Scalia cannot prove these things laws create are less real than the things Scalia chooses. Trade is a form of association like speech. I benefit from the baker baking bread, probably more than from hearing his political speech. The right of the individual to have other people as trading partners, rather than the government cultivating them as enemies in conflict, is what the Constitution is designed to protect.

If the right to private property was not already well-established, it would have come before the First Amendment, rather than in later amendments and unenumerated traditions. The point of distributed decision making created by rights and laws, is for courts and businesses to make decisions which benefit people, without the people who benefit needing to know any of the details. But that is also a weakness in federal court, if I can sue for someone else's right to speak, but not for someone else's right to bake bread or not be in prison, or my right to only pay for the guilty to be imprisoned. The right to a "form of government" involving separation of powers regulating the executive branch, is more like a First Amendment complaint so far as standing, only more so.

All your other rights are dependent on the separation of powers which enforces rights, without needing to list what those rights are. Because the right to legal-judicial rather than political regulation of the government, by not having courts brushed off with

contrived facts, is necessary to protect every other right, from speech to criminal process. If a cop can lie, he can lie that someone called in a report of a suspicious person, when in reality he knows you were participating in an anti-cop protest.

So you have a right to the separation of powers, and to have government only take actions that are subject to regulation or done within the supervision of the separation of powers. It is not clear or finite what rights this might protect, so there is not much need to debate your standing to petition for those rights. So the separation of powers is a right, and an interest to whoever wants a society governed by laws. Decisions made by government in response to political whims rather than the separation of powers are a harm to an individual, which can be redressed as much as a person who was tried by a judge rather than a jury gets instant remedy. Your right to a trial by jury is a subset of your larger right to separation of powers.

Decisions made by separation of powers are also immediate psychic injuries to the "interests" of some people who don't want a society governed by laws but by direct democracy. And who don't perceive their own long-term injury from the error of their ways. But in either case, as a practical matter between political surveillance or court enforcement, the separation of powers is protected by court enforcement not a short-term political question. The interest in unpopular court outcomes, which is what imposing law on executives with separation of powers does, is a minority interest. Regardless of who is even aware of the court outcome versus who has a stake in it. And regardless of who consciously wants separation of powers as a form of government versus who benefits from it or wants something else.

Courts can choose prudentially, or based on their psychic connection with the people to discover what is really important, to abdicate their own power to the executive branch

based on what they imagine the people want, and thereby repeal the separation of powers. So the very structure of government with laws and separation of powers, is a minority interest, which can be weighed not worthy of enforcement by courts. And so all your rights can be erased, by erasing the regulation of the executive branch by courts, by saying that the executive branch producing lies to produce popular outcomes, is not a real injury to any who has standing to sue. But rather a psychic benefit to the sovereign values of the collective.

The interest of some minority of people in separation of powers to enforce federal law, is not recognized in federal courts as a real interest to anyone that is actually enforceable, by redressing an injury to a plaintiff. The individual plaintiff doesn't like it, but that is just psychic.

Our very form of government, where the executive branch is regulated by laws in courts rather than by the political will of the majority, is a minority interest. And therefore some justices would say it is not a real interest in the eyes of federal courts. Justice Scalia would say injury to the separation of powers is not a real injury which a citizen plaintiff could bring to court, against the real interest of the collective to have their will enacted by the executive branch without interference by courts. Justice Scalia would recognize that this or that law might harm the rights of businesses in general, and therefore be eager to give standing to an individual business complaining about some kind of broad federal-government overreach. But Justice Scalia would say courts do not provide protection against the political decision of a society to revert to Marxism, as much real harm as this would cause to an individual.

Individual plaintiffs still win First Amendment cases against the government, and criminals still go to prison. This gives the appearance that courts are enforcing the First

Amendment or enforcing the laws that criminals are sentenced for violating. But what's actually happening is courts are enforcing what's politically popular, which can produce the same result as a real legal process would produce in most cases. The First Amendment is enforced only to the extent its politically convenient to do so. And they are sentencing to prison whoever is most politically convenient to send to prison, based on the imperfect information and perceptions of the public regulating the executive branch. Most of the time the person police have told the public is guilty of murder, really is guilty of something close to what police say.** Just as most people in the USSR still ate rather than starving, they just ate less and a lower quality of food than they would under a better decision-making system. The two systems result in the same decisions a large percentage of the time, which when added to the political popularity of immediate results, makes the subtle revolution in our ideal legal system even harder to detect.

What justices like Scalia have created is not 100% courts enforcing what's politically popular, without courts discovering facts on their own and measuring them against law. It is some hybrid of the two, with political convenience given an outsized and illegal role. So it's not that Mandi May Jackson really committed the crime for which the public will pay to keep her in prison for 70 years. It's that the crime didn't actually happen, but the public doesn't know or care that it didn't happen. So when everything falls back to being regulated by public perceptions, Jackson will spend her life in prison for a crime that didn't actually happen but only exists as a psychic value of the public. Such psychic values are generally appealed to in speeches of dictators while their countries suffer destruction.

**Though every police report I have ever been able to compare to another source of information, the police report contained lies. Public visibility of what police do is clouded and covered with a facade. The public perception of what police do in general is

wrong, even allowing for approval of some amount of misconduct. What police do so far as I can tell, is harass people and lie about it, which then results in plea bargains or who even knows what. The last thing they will do is produce big data to permit statistical analysis of their own activities, rather they hide what they are doing so that they can use a general pattern of lying and breaking the law. The truth is never a big priority, and a lot of harm is done in the fog. When a government office has a purpose to harm people, the line between harming people from doing bad work and punishing criminals is blurred.

III. RELIGION TRUMPS FACT AND LAW IN COURTS

25. Cops Lying is a Religious Organization

A religion is a set of beliefs, habits, and rituals which people embrace with an emotional attachment, seeing them as essential to their own survival and the victory of good over evil. For courts and cops, and employees in local government, that religion is protecting the racket of state witnesses lying, to brush off legal regulation and do what they want. Lying is what enables a cop to find out why a black guy is driving a rental car with a monkey in a cage. Lying enables a prosecutor to convict whom he needs to, to fulfill his campaign promise of controlling crime. Lying is what enables a sheriff to put on a theater of removing undesirables from the streets. State witnesses lying, and courts accepting those lies, to grease off the requirements of law and proceed with what is politically convenient, is the daily grind of government employees in criminal justice. It enables them to throw off regulation by court and law, and create arbitrary power in the executive branch. To do what is politically most expedient.

Lying is why not just utopian "federalist" judges and academics, but low-level local government employees, have embraced the idea that executive-branch employees should be regulated by obtaining voter approval using political speech, rather than by

measuring fact against law in court. It is much easier for politicians to interact with their flock, when they don't have a dissonant reality of speech about their activities in courts. Courts have become an arena for what amounts to competing political viewpoints. And to not give voice to facts which are the political viewpoints of politically-irrelevant nobodies. When a state witness speaks in court, or a judge writes an order or opinion, that is the political speech of the government. It is an advertisement describing government activity. Making judges tell the truth would be letting the ghost of the law or some random nobody, infringe the political speech of some powerful official or of the local majority faction or political consensus.

No politician could be coerced to go before a crowd and recite directly from economic statistics, without choosing which to mention and putting his own spin on them. They won't be compelled to do it in courts either. They see courts as no different from social media, as just a way to get out their narrative and attack dissenters. A judge who tried to stop them would be like that guy who stood in front of the tank in Tiananman Square. Or at least like a local radio station giving free advertising to the opposition or minority faction. This paradigm can no more admit the innocence of those falsely accused, than politicians can admit to bad economic policy (except when it is used to portray a current elected official as more virtuous than his predecessor).

Some politicians face challenges from reality, when saying they are fixing the economy, or winning a war. Government employees in criminal justice have a special problem, and a special ability to fix it simply by lying in court. So that the court record doesn't undermine the world conjured in their political speech. An elected official in the United States has a harder time lying about economic statistics than a planner in the old Soviet Union. But when the reality his speech can't be contradicted by is produced in court, he can easily cure any dissonance between his political message and reality, by judges

accepting lies. An old planner in the Soviet Union might have ordered local factory managers "I need you to double output of car parts by next year." A sheriff in a Florida county today says "I need a witness to go into court and say this suspect is guilty."

State witnesses being able to lie without fear of penalty, and courts accepting those lies as if they are reliable, gives voice and power to the agenda of members of the executive branch. It's just a continuation of their speech on TV and elsewhere. It's what enables a sheriff who thinks a suspect is guilty, or who wants to convict a suspect, to go into court and say what he thinks and get what he wants. State witnesses lying is instinctively perceived by government employees involved in courts, as being as important as other groups see praying, or being able to protest or run political ads. It's like a big-wave surfer being able to hold his breath, lying in court is how they interact with their environment. Trying to take it away is like trying to take away their voice and power. Protecting the beliefs stated by state witnesses, and the freedom to say them and fix court outcomes by saying them, is not just a conscious strategy but a religious process. As is attacking and discrediting people like me who are heretics to their religion, and subversives to the power and freedom they gather by lying.

There has at times been some sophistry to justify state witnesses lying in court, or to talk about what they are doing and try to paint it in a favorable light. Rather than just denying reality and suppressing those who try to produce facts to show they are lying, like politicians do with all dissent. Such as saying the code of silence in the mafia is so strong, that there is no way to convict high-ranking "big fish", unless we can pretend they have told an honest confession to a complete stranger in the jail. Or by saying that cops cannot be lying, because they are regulated by local political "extant factors", such as citizen review or internal affairs investigations. Judges have offered spurious logic, such as that a state witness who is let out of prison for saying at trial that someone is

guilty, is unreliable when years later, and facing no personal benefit for saying it, he says he lied at trial. They say oh, you can trust someone who says what the prosecutor wants him to say at trial, but you can't trust him years later when he admits he lied to get out of prison and because he knew there was a reward and no penalty for lying. Various fake legal logic is offered, with the only common thread that the state viewpoint is given preference by courts.

If you imagine that state witnesses are prosecuted rather than rewarded for lying, I challenge you to produce evidence of this. You can't. All you can do is hide and obfuscate evidence that state witnesses are never prosecuted when caught lying. In all the murder convictions involving jailhouse confession witnesses that were later overturned by DNA, none of those jailhouse confession witnesses was ever prosecuted. Even when a state witness tells a lie that local officials did not want him to tell, a lie which pushes a narrative that is not popular with voters, that state witness generally will not be prosecuted for going against rather than for what is politically convenient. Because once you open the door to prosecuting state witnesses when they are caught lying, it puts a chill on fixing court outcomes as casually as they can be fixed today. Suddenly everyone hesitates, and lives in even the tiniest fear, and it introduces slight friction in producing the most politically convenient court outcomes. So not even defense witnesses are prosecuted when they tell blatant lies, because that would take power away from court and lawyers -- from local politics -- and give power back to the law.

If you believe voters will stop state witness lying, you are wrong. Cops and courts control the political speech of crime reporters, who are immunized to get clicks embellishing sensational stories favorable to government, but can be sued for defamation if they try to investigate and tell a story not sanctioned by government. What

the majority of voters believe is one and the same narrative state witnesses are coerced to tell. Witch trials are not conducted contrary to the will of the majority. Voters would punish the government if state witnesses didn't recite their gossip in court. And nor can voters obtain actual records of what happened in criminal cases, which elected officials can cite some law to deny whether real or fake, or just set the administrative cost of producing arbitrarily high. And anyone who tries to expose cops lying, risks getting pulled over for DUI every time he drives home from a restaurant.

If you believe local voters will stop state witnesses lying or even know when they are lying, you are wrong. If you believe local media will stop state witnesses lying, and risk getting sued and pulled over, you are wrong. If you think judges will stop state witness lying, you are wrong. They need to caucus with the local executive branch to get elected, and they are captive to the utopian nonsense of "federalist" judges on the Supreme Court. If you believe improvements in science like DNA will stop state witnesses lying, you are wrong. If you believe human progress, or improvement in human nature compared to some barbaric time will stop state witnesses lying, you are wrong. If you believe defense lawyers will stop state witnesses lying, you are wrong. Prosecuting state witnesses for lying does not immediately help a defense lawyer's client, and publicizing a record of state witnesses lying will never be part of the horse trading in an immediate case, sweeping the lying under the rug will be part of the deal. If you think the FBI or some institution in Florida government will investigate state witnesses caught lying, you might as well try your luck in the state lottery.

If you think criminal justice reformers like the Innocence Project will demand state witnesses be prosecuted for perjury, you are also wrong. Their game is moving the decision of guilt to appeals courts and lawyers and the political arena where they raise money. State witnesses telling the truth in court gives power to no man, and only the

law. All these utopian myths about what stops cops lying, I have dispelled in US-FL-MD 6:24-cv-1993. All this I have detailed in that complaint and elsewhere, controverted by no witness, but only obfuscated with silence and spurious fake color of case law to dismiss my case.

26. Witness To Cops Lying - Fact Meets Theory

I spent most of my life thinking cops lying was like bits of dirt in a carpet that are too small to eradicate. This despite people wanting to eradicate them. I never would have dreamed it was part of a scheme designed to move power to the executive branch, that went the whole way to the top where it was embraced as a religion by Supreme Court justices. I never would have guessed it protected by a utopian political religion where the majority of people hate rights and want to break laws, to give "power to the people". I never would have guessed that case law was just sophistry to give this some kind of fake intellectual color, but which case law could no more survive intellectual scrutiny than most other religions. And where the judges who write that case law are just charlatans destroying law to promote their own religious agenda.

When I was college age, I saw a cop lie about some guy I knew, and I complained about it to a local prosecutor. This guy had a funny name like "Joe Breaux", and so the cops thought he was giving a fake name with an attitude. The prosecutor said basically "Don't piss off cops, and you won't have a problem. 90% of the cases I get in here are kids who weren't breaking any law, but they had an attitude with the cops so the cops invented some lie to arrest them." Then I got a stop sign ticket in that same town, where a pedestrian walkway on the right made it confusing where the intersection was with a street on the left. It was right outside a school. I saw the cops were sitting there all day printing money off people who were confused. I figured scams like this happen in situations where it is not cost justified to do anything about it. The rich kids are easy

meat who just pay the ticket. This is what started my theory that cops lie about small things, in situations when arguing about it costs more than letting it go.

Three or four guys at a bar attacked my friend, after they insulted his girlfriend and she threw beer on them. The bouncer told my friend to just run away, so he did. A cop saw my friend running when they had just done a gang bust. They arrested him thinking he was one of their fleeing suspects, and planted a bag of weed on him. They got the witnesses at the bar to say he attacked them. The guys at the bar said between me and my friend, the "big guy" attacked them. My friend's lawyer said he was going to go into court and say I was the big guy. This despite my friend being two inches taller and wider than me. But they disposed of it with a plea bargain, and to a casual observer this seemed like a way for the state to back away from the lies of the cops, not endorse them. I did not realize it was a way to avoid examining and producing a record of state witnesses lying in court, a way to obfuscate that cops lie like this every day as a standard process. And lawyers have no incentive to stop the business of lying, to ever say "this cop planted a bag of weed" if they can avoid it. Nobody ever said in court and there is no record anywhere, that the cop planted a bag of weed.

A cop in California arrested me for driving my own car, later claiming he ran my out-of-state license plate wrong and reasonably believed my car was stolen. Four cop cars jumped me face down on the pavement at a gas station, and kept me in jail for hours without ever asking to see my license and registration. When I heard cops in the hall, I kept calling out to tell them where they could find my license and registration in my car. They didn't want to see my license and registration. Because at that moment they would have to stop searching my car and let me go. When they finally let me go, I saw they had gone so far as to remove all the panels from my car, in search of something they could find to arrest me for. The cop lied in his report. When that cop later got shot dead

responding to a call of someone shooting at police, I thought he must just be uniquely dumb. I did not realize this was a standardized system for searching beat-up cars with out-of-state plates. (I call this "contriving a synthetic vantage point".)

A cop in New York lied that he saw me break a traffic law, that I drove across the grass median or something, I don't remember what he said I did. He towed my parked car. I knew the cop had never seen me before in his life, so I bought a long-haired wig and went to the police station wearing it. In court the cop swore that he had seen me breaking the law with long hair, but that I had since gotten a hair cut before coming to court, to try to fool him. I told the judge the cop was lying, and I wanted the transcript. The judge seemed to know the cop was lying, but convicted me anyway. When the cop took me back to a cell until I paid the ticket, and he knew that I knew that he was lying, he said approximately "You know how much it costs a page for that transcript? You will never afford it." Once again, I figured the trick was that the transcript cost more than the ticket. So he knew I would just pay the ticket. The cop basically said that was the trick. I did not yet suspect that the judge actually approved, of the cop the lying to harass strangers who drove through his hamlet.

More recently in Florida, cops have lied about me in every traffic interaction. Just to name a few, a cop pulled me over on private property, seemingly after she mistook me turning right as trying to evade her. I had turned onto private property to go to my own property. She actually lied on the ticket that she pulled me over somewhere else, on a public street. When my lawyer pointed this out in court, they said they were not going to pursue the ticket. But if I had been from out of town, I would not have known that road was private property, or that the address on the ticket was wrong. And the cop would have used lies and broken the law to search someone's car from out of town, as she wanted to search my car. Another time I handed someone my cellphone to make a call,

and police ran up and brutally tackled him and searched him, saying it was a drug deal. When I went to the police station to complain about it, they said the cop's version of the story was different, and they refused to let me write any complaint saying otherwise. The guy whom they tackled was too terrified to complain, and I thought that was the trick. In both these cases cops lied, but there is no record of it, they are not even close to being called Brady cops.

Put simply, I spent my whole life believing that cops lied where they could get away with it falling through the cracks, but if it ever came to really important things, they would be forced to tell the truth. Then my friend was arrested for felony murder, Mandi May Jackson. And within a few hours I had a pretty good idea of what had actually happened, and that the whole thing was a hoax. I paid to get her a private lawyer. The lawyers (who were former local prosecutors and friendly with the cops and CSI) strangely refused to give me the evidence, so I paid to get it myself as public records. I figured out that the whole robbery story was a scam built on lies. When I started sending emails pointing this out to people and complaining, the lawyers I paid stopped talking to me. I watched more than 10 state witnesses commit more than 50 instances of material perjury, to give my friend life without parole from age 21 for a crime that didn't happen. While she was sedated and held in isolation without bond, and was too dumb to know what was happening to her or what she could do about it.

I found out the prosecutors knew the police were lying, the lawyers knew the prosecutors were lying, the judges knew the witnesses were lying, and for some reason it didn't matter. Everyone just carried on like this happens every day. The lawyers made money this way, it was a gravy train for former local prosecutors. One time I told my friend on the jail phone that this cannot be the will of the Florida voters, to intentionally torture someone by sedating her in isolation for years, when she has not yet been

convicted of anything, and all the evidence is fishy. I was wrong about that also. The voters love locking up and torturing cute young white girls, the prisons are filled with them. And along this journey, I learned her case was not unique. Convicting the innocent with jailhouse confession witnesses, and every other kind of lie, is a standard process, they had done the same thing to thousands of people. What I found out is the more important the case is, the bigger the lies get, and the more zealously religion is used to invent and protect the state viewpoint. Criminal justice is a social religious process, not a science like on TV.

This was around the when George Floyd died with a cop kneeling on his neck on video. There was a debate on the Internet about police misconduct. And I had cops literally tell me in the anonymity of the web, that lying is how they get the bad people off the streets, and improve the world. A retired judge said he often knew cops were lying, but he didn't think an alternative system was possible where you could stop criminals without lying in court. A retired cop said he often framed innocent nobodies, and that nobody likes doing this, but it is necessary to get them to testify against the big fish whom the cops have no evidence against. Other people, often cop family members and supporters from the broader "cop cult", told me it is good for cops to invent lies to shoot bad people. They say that when police lie, it is a direct and inevitable consequence of other people's poor life decisions. And the people whom cops shoot need to take accountability for being undesirable lowlifes, as also need to, for protecting them at the expense of the good.

I tried complaining to elected officials about this fraud, thinking legislators in my own political party, Republicans, were more idealistic than this and actually believed in Constitutional rights. I was wrong. I got lied about and attacked and called a Marxist who wanted to destroy America. And I realized it was a religion. But I still thought it was just a religion of cops and voters, I did not realize the mainstream of judges is

complicit in it also. I did not yet realize that judges like being lied to, and why, that it is much easier than enforcing the law. Or for utopian "federalist" judges, they actually think creating arbitrary executive-branch power and insulating politics from courts is the law. They literally say it is illegal for courts to give venue to truth and legislation over lies, when it would take power away from the local political process and move power to federal courts and law.

27. Judges Won't Recite Allegation Cops Lied

So cops lied about me and my friend and a ton of other people, brazenly. And when I complained about it, cops started following me around and threatening me and trespassing on my property. I thought I could sue in federal court, to stop this happening over and over. I had no other choice than at least try to. And I got even another surprise: Not just state courts and lawyers, but even federal courts, will refuse to even recite the allegation, that state witnesses who lie are never punished. There's a religious taboo against judges putting that in writing. It would be the first step of handing over power to the law, which is the most irrational thing a person in power can do.

If you say cops lied and were never prosecuted, federal judges won't even acknowledge what you said. A judge will instead say something completely untrue about what you alleged, will substitute a straw man. Or claim not to understand what you alleged, or will instead write the lies that were alleged about you, or will just write total nonsense. And nothing you can ever say about what the judge said, can compare to the heat a judge would face, if judges even entertained the allegation that state witnesses are never punished for lying. Much less admit that it's true, or allow a hearing to compel discovery and prove it is true, which would blow up the whole scam.

Even The Innocence Project would lose power and risk going out of business, if they

fixed the jury trial process by punishing state witnesses who lie. And they would be politically attacked, rather than playing friendly and giving politicians a chance to take photos together, supposedly doing good and improving the world without actually fixing anything. It is all designed to move decision power to someone other than the jury, and protect that power to use court outcomes for political and financial gain. A judge who reduced the ease with which lies can be used to create plea bargains, with the result that he had to oversee more trials, would also be insane.

Every lawyer knows state witnesses are never prosecuted when they commit perjury. And this enables the state to get whatever court outcome they want, using lies. Cops can blow off courts and do whatever they want. Prosecutors can convict whomever they choose, of murder. Most people try to stop this politically, meaning most non-lawyers. Which will never happen because lies are how the executive branch gets the power to do what is politically popular. So finally I tried to get courts to stop it, by arguing this general system and process of rewarding rather than deterring perjury violates due process. Which it does, if due process has its own actual definition and is taken literally.

28. Federal Courts Affirm Arrest with Only Political Speech Witnessed

A typical Florida judicial circuit gave my friend life without parole for a crime that didn't happen. This was the same judicial circuit that used a fake dog tracker John Preston as a witch pricker to convict dozens of people, and no local lawyer ever said anything. They did this to my friend after her pimp boss took her home and drugged her, and seemingly fell off a balcony by his own reckless choice, in his effort to hide his crimes that night. He had a past violation of probation, and the only danger he seemed to be fleeing at that moment, was his own crimes being exposed. But they got revenge for Big Mike Brown in Ferguson, by producing lies that it was a planned robbery rather than her boss drugging her, and lying that he was shot while fleeing.

I watched the local political network fake this imaginary crime, in a trial where more than 10 state witnesses committed more than 50 instances of material perjury. And every lawyer in the room, almost everyone except the jury knew this. They detailed a crime that was completely imagined and impossible, brazenly contradicting a mountain of physical evidence and original witness statements which changed at trial. This scam also could have been exposed by even the simplest investigative journalism, if that is what local media were paid to do, rather than encouraged not to by Florida law. I documented this perjury and fake evidence better than any other criminal case has ever been documented on a website, at SeminoleScam.com.

And none of the people who knowingly broke the law to scam the voters and give my friend life in prison for something she didn't do, will ever go to prison for this heinous crime. It says right in Imbler v. Pachtman (which was decided around the same time as the right to abortion), that judges will accept lies as true and knowingly keep the innocent in prison, to protect members of their peer network from ever paying any price for their crimes ("would often prejudice criminal defendants by skewing post-conviction judicial decisions that should be made with the sole purpose of insuring justice").

I started complaining about this to the elected prosecutor and every other elected official and law-enforcement institution. And about Florida law giving prosecutors discretion to protect pimps like Jeffrey Epstein, Joel Greenberg, and the one who drugged my friend. When I posted "Cops2Prison.org" fliers at a law a school to complain about this, they arrested me with no witness of a crime, and using perjury. They seized and examined my laptop where I documented all their crimes, they uttered a false bond condition never signed by a judge, and they kept me off social media talking about their crimes for five months, without ever providing a charge, witness or discovery.

When I then reported the perjury in my own case and the James Mulrenin case to the Florida Inspector General, they sent an armada of cop cars to detain me at a gas station, and threaten to lock me up without going before a judge and worse, if I ever reported perjury to the Florida Inspector General again. And to cover up their misconduct and discredit my exposure of their crimes, they had a local gossip website index to my name in search engines, the false story that I was arrested for driving over a bridge to have sex with a housewife, including objective lies that were not even in any perjured arrest affidavit.

I sued for defamation, such as for lying that my email to an elected official making fun of the January 6th mob was part of a sex crime. The Florida circuit judge ruled that the lies they mislead people to believe about me are true, without a single witness that what they say is true, and contrary to the only witness, me. The local county judge obviously did not read a thing I wrote, and accepted straight inventions from their shamelessly lying attorney Mark Herron who was not a witness. And the local judge used some dubious case law "Ortega v. Post-Newsweek", which is their standard fake legal color to immunize publishers who lie government-favored viewpoints about government misconduct, and to harm government targets.

Florida law is interpreted as not allowing any process of witness or confrontation examining what is true about actual government conduct. It is used to discourage truth about government conduct being examined in private speech. The choice of what is true in private speech is made without a witness by a judge, to protect her peer who signed the bogus arrest affidavit and glorify elected officials with song, not by a jury based on a witness.

I realized they were breaking federal law, and that wise people had historically created remedies for this, where I could sue in federal court. They retaliated for my political speech, they arrested me without witness of a crime, they used stigma to impair my liberty interests. They controlled speech about their activities to the voters. The responses of the federal judges to my complaints were frankly bizarre and surprising, having no connection to what I said, or what I had been told is the law and my rights that they supposedly enforce.

What I learned is that since there is no way for federal courts to respond to the actual facts and events in such allegations without admitting the executive branch is breaking the law, and since their religion prohibits them from exposing cops lying and from regulating powerful politicians, federal courts will simply refuse to recite your allegations. They will not even read what you have written, and will instead put some nonsense in the record, anything other than saying cops lied and what actually happened and applying the law to your actual facts.

Federal judges are mediocre sophists, who will put in the record that they have dismissed your case, for reasons that have zero connection to what you actually said about their connected peers. In the case of the average nobody which attracts no political attention, their "unpublished" rulings give only the thinnest color of law, which could not stand up to the scrutiny of anyone who actually cared to read the filings. Federal courts do this in thousands of cases that will never be read by anyone. They even sometimes cite these cases, knowing nobody will ever bother to dig up the flimsy nonsense they are actually citing.

But being naive, and believing the myths I was told that federal courts protect Constitutional rights -- believing they do this fancy job even when nobody cares or is

even looking -- I filed three complaints in federal courts:

CASE 1 - A cop arrested me without witness of a crime, using perjury, used false bond conditions, and kept me off social media for five months without ever providing any charge or discovery not even a police report, violating many laws including the Florida Rules of Criminal Procedure. This was done in retaliation for political speech, including an email comparing the January 6th mob to bikers in a movie and posting "Cops2Prison.org" fliers, which the cop knew but obfuscated in his perjured affidavit. Police also detained me, trespassed on my property in a military formation after being told to stay off, and followed me numerous times all without a crime or any judicial review, stated by cops to have been requested by elected officials in response to plain instances of political speech including sending emails to Washington. And they detained and threatened me at a gas station, in response to my reporting their perjury to the Florida Inspector General, said to be on orders of "The Governor". (See US Supreme Court 24-59 Petition for Rehearing filed October 11, 2024)

CASE 2 - State law and local cops immunized and encouraged click promoters to index lies to my name on the Internet, to subvert voter "political surveillance" of their misconduct, by characterizing my political speech as a sex crime, without a witness and contrary to the only witness. They put on the Internet that I was caught driving over a bridge to approach a housewife with stealth. When the only thing any witness has ever said is that I was posting "Cops2Prison.org" fliers at a law school -- witnessed by a security guard -- after which I drove home without event, and not witnessed by any crime victim. The State of Florida used spurious color of nonsensical defamation case law to encourage and select false speech about me and about their own activities -- their own state viewpoints in private speech -- without process of witness or confrontation to determine what is true. And without any legitimate state interest in selecting what

viewpoints are encouraged and immunized versus abridged, in private speech. Florida surreptitiously moderates private speech about government like TikTok v. Garland, using financial incentives, general influence, and spurious legal color conflating Fourth Amendment powers with First Amendment rights. (See US-FL-MD 6:24-cv-6)

CASE 3 - State witnesses being allowed to lie without punishment is an unconstitutional state law that infringes the right to due process threatening unrecoverable prospective injury. Florida law giving prosecutors discretion to reward and not prosecute perjury - to use this to select what testimony is produced and accepted, and fix court outcomes using executive power - and the record of actual perjury being obfuscated, and the finder of fact not considering such extrinsic evidence of witness reliability, is a violation of due process. It is a violation of such process as is due deter and mitigate perjury, as necessary to reliably produce fact to measure it against law, in the jurisdiction of federal courts. So that a murderer Ishnar Lopez-Ramos was encouraged by the State to invent a fake story about me planning the murder of James Mulrenin (where I was actually the intended victim when James Mulrenin died). And where this creates prospective harm because I cannot even drive down the street without risking being lied about at the whim of a cop, as I have been regularly. And even if I can eventually prove state witnesses lied who were encouraged to lie rather than deterred, it will be too late to recover the damage. Prospective government employee action, unregulated by such process as is due to deter and mitigate perjury, but rather insulated against legal regulation using standardized encouragement of perjury which insulates state action from courts, is a violation of due process, separation of powers, and the rights of citizens codified in legislation and tradition. (See US-FL-MD 6:24-cv-1993)

29. Judge Ignores Witness, Invents Facts to Create Outcome

In the first case I filed, the judge said I was the liar. Federal magistrate Shaniek Maynard

invented straight lies about me and about what happened, none of which the defendants even said. Rather than lie too much to a federal court, the defendants used a strategy of remaining silent and pretending to not know what I was talking about. They put on an act of just saying "Who is this crazy person?" The defendants did not dispute what I said, the magistrate and judge did so spontaneously, as members of the same clerical order.

Just to name a few, the judge said I had sent an email connecting a picture of an elected official with a link to a violent video, which never happened, and no witness said it happened. The judge also said I had no evidence of state witnesses committing perjury, when I had witnessed it with my own eyes and documented it, and that is what my emails to elected officials were about, which zero of them ever disputed (or even said anything about as witness). The judge said that when I reported perjury to the Florida Inspector General, and Governor DeSantis had cops pull me over and threaten me to never report perjury to the Florida Inspector General again, it was a "welfare check". No evidence or witness of anything was ever produced to support these inventions used by the judge, or to contradict my own sworn statements as firsthand witness.

I swore notarized and filed in a federal court that I had firsthand witnessed perjury both in my own arrest and in the Mandi May Jackson case (US-FL-SD 2:21-cv-14355 ECF 68 page 4). The US District judge adjudicated that everything I said was lies. So I petitioned the federal appeals court for a writ of mandamus to prosecute me for this perjury, since the judge in the district court said the things I swore were not true (USCA11 22-13155 ECF 44). The appeals court did not read a word I wrote in my briefs, and affirmed something the district court did not even say. It is unlikely that any appeals judge even read the opinion from the district, more likely that some kind of intern did a quick copy-paste job.

In this first case involving elected officials who sent cops to threaten me with no crime but mentioning political speech, I learned that even in federal courts, government employees will decide what a case outcome should be based on a social consensus among connected parties. The case will already be decided outside of court. And then a judge will accept or invent false statements as necessary, to give the color of a legal ruling on fact to the politically convenient outcome. And they will not even read the case filings, but form their opinion of the case on general impressions and gossip. So that federal courts will only even read the filings in a case, if some popular political interest is first created in the case outcome, which then forces them to put on a theater of real law since they know people are watching. So they only create a little theater of actual law when they need to, for the nerdy idealists who still imagine federal judges are something other than charlatans.

30. Fourth Amendment Vantage Point Scam

In the first case where cops detained and trespassed me all over the map without telling a court about it, I learned the trick which "federalist" judges use. They use a scam to abdicate their jurisdiction to regulate state criminal-justice actors back to local voters, after the legislature gave them jurisdiction and mandate to stop cops lying. They do it by driving any state action that is politically popular through the Fourth Amendment, where they don't have to prove any crime or even produce a witness. The trick federal courts use to say cops can do whatever they want, is to let the state drive it through their Fourth Amendment powers, where you don't get a day in court with discovery and witness confrontation.

The Ku Klux Klan act fixed that, by exposing even state Fourth Amendment activity to examination in the jurisdiction of federal courts, and ultimately to a jury. Federal courts

have jurisdiction to examine the actual facts of what local cops actually saw and did. But charlatan judges have created basically a scam pleading burden, where you have to prove your allegations of what cops saw and did without getting any witness or discovery from cops. You have to do this before you can make the state come into court to produce witness and discovery in response, to defend themselves.

The specific burden federal courts put on the victim of police misconduct, is to prove as witness from his own vantage point, that a cop is innocent of imagining the possibility of a crime, based on what the cop saw and knew at the cop's vantage point. You have to tell a court what the cop actually saw and imagined without the cooperation of a cop, who is presumed guilty of reasonably imagining a crime, and wants to keep it that way by remaining silent. Like you have to somehow know and say what a cop you never met, heard from a witness you never heard of, and so on.

This is quite different from the burden to sue non-cop state actors in Mt. Healthy v. Doyle, where a plaintiff only needs to allege that he witnessed his own rights being violated and he knows of no legal justification for it, giving the appearance at the plaintiff's own vantage point that his rights were violated for an illegal reason. And then any non-cop state actor is forced to respond with what he saw at his own vantage point, with evidence to prove the rights infringement was legally justified, under discovery and confrontation.

When it involves cops, federal courts mismatch the witness and burden, by saying you have to prove from things witnessed at your own vantage point, that a cop another vantage point whom you never met, could not have imagined the possibility there was a crime based on the unknown things he saw. And then courts use their discretion to call you a liar, or implausible or whatever, and nothing will force any court or appeals court

to do this honestly, or make cops come into court and produce evidence.

	plaintiff vantage point	state-actor vantage point
non-cop state actors (Mt. Healthy)	**1.** plaintiff alleges speech infringement as witness in federal court	**2.** defendants prove cause of state action as witness in federal court
cop state actors (Nieves-Thomas)	**2.** plaintiff disputes cause from cop's vantage point as witness in federal court	**1.** cops lie about (color) cause of state action in state court

Under the non-cop Mt. Healthy burden, if you allege a state actor broke the law, the burden shifts to the state actor to come to court and explain what he did. Whereas if you allege a cop broke the law, federal judges refuse to use federal venue to produce evidence or testimony that a cop lied. Because once they can no longer fake the evidence, and once local judges no longer can just let cops lie and do whatever, they have to start enforcing the law. And then the executive branch loses their utopian power to do good.

Once the state can no longer produce unreliable testimony at will without any fear of penalty, and courts can't blindly accept it, they have to start measuring fact against law instead of creating whatever outcome they want. So Mt. Healthy makes non-cop state actors come to court to explain when they attack speech. But when cops attack political speech and viewpoints, federal courts immunize cops against having to come to court, and protect and invent lies to create the color of a real legal outcome enforcing federal law, while giving the local executive branch unregulated power pursuant to their idiotic utopian theories of governance.

The Supreme Court says a school sports coach can't be fired for praying on the field. But if you engage in political speech in a protest, a cop can run past you and knock you down, and then remain silent and refuse to produce a police report about it. And you can never prove from your vantage point that the cop didn't see something at his vantage point - maybe an anonymous tip, maybe you looked similar to another suspect, maybe he read your license plate wrong - something that made him reasonably believe you were breaking the law. It doesn't matter that you know that you were holding a "Black Lives Matter" sign, because what you know cannot prove what the cop saw.

Cops are not as dumb as non-cop government actors who often naively admit they fired you over politics for not knowing it is illegal. A cop will always claim he had some reason to search your property, the same as a cop will always show up to court wearing clothing. Cops are like judges, who know to not say anything when they do what they do because you said cops lie. Cops also say as little as possible when they lie. And a federal court will not compel a cop to even produce a police report explaining his actions.

Of course cops coming up with some fake reason to arrest you, is as easy as breathing when they never have to submit to discovery and cross examination. Unlike non-cop state actors, cops play the court game every day and know to never say what they really did or the real reason. Federal courts then abdicate their jurisdiction to create due process of discovery and confrontation, to instead protect the fake imaginary vantage point where government employees could have been exercising legitimate action in response to the possibility of a crime. Federal courts insulate the imaginary synthetic viewpoint from ever needing to be proven using due process in court. And they even use this imaginary vantage point with no witness, to then say what is true in private political speech about government. This is just a version of the more general trick of judges deciding what evidence to accept or allow (and giving the state the presumption of

reliability), to predetermine their ruling.

In other words, case law is designed to exempt executive-branch action in criminal justice from federal court oversight, by pretending there is an imaginary or synthetic vantage point where a cop might have imagined the possibility of a crime, and could have taken action based on this hypothetical vantage point, while immunizing the state against providing evidence or testimony about what they actually saw. They then say reporting this hypothetical possibility witnessed by nobody as if it is true - giving special immunity to report viewpoints selected by government and approved by judges to make their peers look good and prevent government from being examined in private speech even in defamation court - is not defamation and deprivation of liberty interests of government targets, but press scrutiny censoring government activity.

Justice Scalia in Hudson v. Michigan and Justice Roberts in Herring v. United States interpreted the Fourth Amendment not as a process right that a judge finds fact, to validate reasons to believe there was a crime and violate your security, but rather as a right to the local political surveillance of whether cops are faking reasons. So they use the Fourth Amendment hearing not even to check whether the state has made a law abridging security without a judge finding probable cause, but to check whether the system in place in the state is adequately monitoring and regulating whether cops are violating security using lies and fake reasons in general, not in the specific case. Because "federalist" judges think local politics has better information and is more virtuous than judges and less corrupt than process in courts.

And that is how I was detained and threatened not by a government employer for praying to God, but by cops for praying to the Florida Inspector General for relief from perjury. The cops even admitted in a report that they were using fake color of reasons to

detain me. And I have an audio recording of cops saying they were detaining me in response to political emails to Washington. But so generous are federal courts with the possibility that cops can claim some set of things they saw and didn't see that led them to believe maybe a crime was happening, that none of that mattered. You have to prove the cop did see your "Black Lives Matter" sign when the cop says he did not. You have to disprove an imaginary synthetic vantage point which you were not witness to, and using only things you saw at your vantage point.

To sue cops in federal court, they basically have to produce evidence of their crime and admit to it before you even show up in federal court. And even if cops admit to it, good luck, judges will just invent some straw man of what was in the filings, and pretend what is right in front of their face does not exist.

31. Rule On A Straw Man Scam

In the second case where I sued for cops using speech to injure me without due process, I confirmed that the easiest way for a judge to dodge the law, is to not even recite your allegations and pretend to not understand it. Having learned from the first case, I actually filed a motion in the second case, asking the judge to accurately recite in any ruling my allegation that a cop had lied in an arrest affidavit (which was then used to abridge private speech that contradicted the cop). In my motion, I implored the court not to choose what was true and false, and even invent things, contrary to any actual witness, and in a brazen pattern of defying reality to instead contrive things favorable to the government and harmful to me. I ran off a list of times judges had recited straight falsehoods favoring the state in their rulings, and asked the judge to not do this (US-FL-MD 6:24-cv-6 ECF 31, ECF 36).

My complaint detailed dozens of instances of state witnesses committing perjury, and

detailed how when I posted "Cops2Prison.org" fliers at a law school to air political grievances about it, the state used nonsense case law to moderate content and financially incentivize lies to cover up their own misconduct, to have a news and gossip website put in search engines that I was approaching a housewife with stealth (witnessed by no one, and contradicted by multiple witnesses and physical evidence). The defendants themselves said they were publishing lies for money based on state law, that they could publish that I was arrested for threatening martians and make money doing so, if the state gave the okay.

The judge ruled against my motion to at least accurately recount my allegations, refused to recount any of my allegations mentioning cops lying, and instead invented the allegation which no filing ever said, that I had sent lewd emails about someone to multiple elected officials (US-FL-MD 6:24-cv-6 ECF 37 page 2). So far as I can tell, the court was operating completely based on gossip about me with peers in the legal community, which decided the outcome the moment they saw my name. Because from the moment I began exposing the government in the Mandi May Jackson case, everything I did was treated as the activity of a dangerous subversive.

In Hudson v. Michigan, Justice Scalia interpreted the Fourth Amendment as a requirement that police be regulated by the "extant factors" of local politics. In Murray v. Taylor (supreme and district), federal courts affirmed that voter regulation of police using political speech, has to begin by accepting viewpoints of government and statements of police as true, while anything else you can be sued for saying. Federal courts say this political process of private speech examining cop behavior, has to begin by accepting cop lies and government viewpoints as true, while any other viewpoint is subject to lawsuits and court process of producing witness and evidence of what is true. The government can use state defamation court to abridge only speech the government

doesn't like, while immunizing government-selected viewpoints, and state actors, against producing witness and evidence and examination in court of what is true.

The government shaping private speech is something federal courts have shown they have no trouble recognizing, and finding even the tiniest examples of it in crumbs. But the moment your allegation involves cops lying, or protecting speech exposing when they lie from government control, all that theater which the Supreme Court puts on about protecting political speech, goes right out the window. Saying state witnesses are never prosecuted when they lie while the finder of fact pretends they are, is not protected speech or even accepted speech in a federal court.

They will say you committed a sex crime, so that for the rest of your life only swingers will try to associate with you, rather than admit you were posting fliers that said cops should go to prison for lying.

32. Refuse to Recite Allegation State Produces Lies Scam

Every lawyer knows, Florida never prosecutes state-witness perjury. When cops lie, when jailhouse confession witnesses lie, they know they will never be prosecuted for lying the state narrative. No matter how many innocent people they harm. Rather they are rewarded for lying. Cops win points for coming up with fake excuses to harass people. Prosecutors pretend to convict murderers. Actual murderers get out of prison for lying. Lawyers make money by getting plea bargains in exchange for their clients telling lies the prosecutors want. Lying is simply a way for the executive branch to create power to do what they want, without being regulated by courts and law.

So I spent years suing in federal court, arguing state law that allows prosecutors to reward and never prosecute state-witness perjury, while judges and jurors are left to

pretend witnesses don't have this incentive to lie and to instead blindly accept the state narrative, is a violation of due process. I spent years arguing in federal courts, that state law which allows prosecutors to encourage witnesses to swear government-selected lies in court, while judges and juries pretend there is a penalty for perjury so witnesses must be telling the truth, is a violation of due process. Because I literally cannot drive down the street without the risk of some cop lying about me, creating a harm with no recourse. Which has already happened, and is likely to keep happening until I shut my mouth about cops lying.

My petitions in federal court to stop the state encouraging perjury had the following basic elements:

1) the fact that state-witness perjury is never prosecuted (and certainly never except in cases when voters demand it, giving voters the choice of what testimony is presented and therefore the choice of court outcome)
2) the fact that prosecutors can choose not to prosecute perjury, and instead choose what people say in court, what facts to reward
3) the fact that true information about this -- about the reliability of state witnesses -- is never provided to jurors, and their bias to incorrectly imagine state witnesses face extrinsic incentives to not lie, is never cured
4) the argument that prosecutors having the discretion to reward and not prosecute perjury allows them to manufacture testimony and fix court outcomes with lies, moving the decision away from courts and to politics
5) the argument that finder of fact and judges accepting what the state says, and even having dubious case law that instructs them to, basically enables the executive branch to fix court outcomes with lies
6) the argument that state law which lets the executive branch subvert courts with lies to

do whatever is politically convenient rather than what is legal, is a violation of due process
7) the argument that federal courts have jurisdiction to tell states to stop this

Given the facts are without dispute - state-witness perjury is never prosecuted - the only dispute is whether this violates due process. So I expected to go into court. And have a judge say yes, state-witness perjury never being prosecuted is a violation of due process. Or no, it isn't. I was quite surprised to find out that every judge and appeals judge, refused to even say the allegation, that state-witness perjury is never prosecuted. They all basically said we don't know what you are talking about, everything you have said is incomprehensible, we don't have to respond, case dismissed. The used not just straw-man facts, but straw-man allegations and filings. Federal judges could not acknowledge even an actual phrase from my filings.

Not one judge said "state-witness perjury IS prosecuted". Not one judge said "prosecutors don't fix court outcomes by rewarding and never prosecuting perjury". Not one judge said "prosecutors having the discretion to reward and never prosecute perjury, while judges and juries ignore this and give preference to lies from the state as if witnesses do risk a penalty, is not a violation of due process". Every judge said "we can't understand what you are talking about, we don't have to respond to this, dismissed". Not one judge challenged the facts or the legal argument. They all refused to even say what the facts and legal argument were. Because then they'd have to say whether it's true or not. And they can't say that it's not true.

One of my judges even cited another case, the U.S. Steel v. Astrue appeal. Where that other judge did say what the alleged facts and law were. But where the other judge said the plaintiff had not shown those facts or law in the trial court when they had a chance,

so the judge in the other case had nothing to respond to. My judge said that because the judge in that appeal had no facts or law to respond to, the judge in my case did not have to say what facts and law I was alleging to dismiss my complaint prior to the defendants ever having to respond and admit whether cops who lie are ever prosecuted.. Even though I backed it up with numerous facts and case law.

Try to get a judge to say, that you think state witnesses are never prosecuted for lying. Not that they think this, just that you think this, even if they disagree. A thousand bucks says, you can't do it. You can't get a judge to repeat what you believe. Because it's against their religion to say that. Lawyers will break out every trick in the book, from staying silent to saying nonsensical lies about what is right in front of you, to protect their gravy train of lying.

33. U.S. Steel v. Astrue Scam

Here is a specific example of a scam, which a federal district judge Carlos Mendoza used to dismiss my cases, and probably many others. He cited another case, U.S. Steel v. Astrue, to pretend it is legal to say I had presented neither facts or law and so he doesn't have to recount or even read my allegations. So that he does not even have to say what facts he is measuring what law against to base his dismissal one.

There was a new law, the Coal Industry Retiree Health Benefit Act, that allowed the Social Security Administration to assign retirement liabilities for employees in the coal industry, to various large corporations. U.S. Steel disputed that some of the retirees had ever worked there, but the SSA refused to reverse the assignment, so U.S. Steel sued Astrue. The federal district judge ruled in favor of the SSA. On appeal, one of the arguments U.S. Steel made is that the decision not to reverse the assignment of an employee was "capricious", based on the SSA having previously reversed assignments

when corporations disputed the assignment. The appeals court said that since U.S. Steel had failed to develop a factual record in the district court of these previous reversals -- the appeals court called these facts "underdeveloped" -- and since there were no other cases for this new law that contradicted what the district court had done, the appeals court had no facts or law to even disagree with.

Judge Mendoza cited Astrue in his order dismissing my complaints on motion to dismiss before even discovery, as making it legal that he did not even have to say what facts or laws he was responding to. And he cited the Astrue appeal, to say it is legal for a judge to call a plaintiff's complaint "underdeveloped" as an excuse to not even consider the material. Not only had I alleged numerous facts and cited numerous laws, we had not even reached discovery for me to develop those facts. The burden was on the defendants in their motion to dismiss, not on me to overturn a ruling in the district on appeal, based on facts already developed in the district. And since I was talking about due process and the state producing lies in court, not capricious assignment of retirement liabilities pursuant to a new law, I and cited tons of case law to say states can't produce lies in court.

And in one case, Judge Mendoza dismissed seemingly implying it was because the format of my complaint. Because that is the reason the magistrate had recommended for dismissal. Though Judge Mendoza didn't recite that reason, and it made no sense for him to cite Astrue as a reason to dismiss based on a pleading format. If the facts are the format of my complaint, it is impossible for me to have underdeveloped them. And if the law is the pleading standard, there is no doubt as to what law I am citing. So Judge Mendoza was legally required to consider my argument about how the format of my complaint fit laws about format. Whereas in Astrue, the appeals judge cited the laws and facts that were missing. But Judge Mendoza instead basically said he could dismiss

without saying or doing or seemingly even reading anything, citing Astrue.

You can see more detailed descriptions of what Judge Mendoza did, in my two motions for reconsideration:
http://AntoninScalia.com/US_Steel_Astrue_Scam.pdf
http://AntoninScalia.com/Murray_v_Gov_Reconsideration.pdf

A court doesn't even need to cite another case to say you lack facts like Judge Mendoza did, if you really lack facts. A court can just say the facts you lack. The judge in the U.S. Steel v. Astrue appeal read the pleadings, and said what the missing facts were, the previous reversals of SSA assignments. But in the scam used by Judge Mendoza, he cites the U.S. Steel v. Astrue appeal to say he doesn't have to say the facts you lack or even read your pleadings. And that is how he avoids recounting the allegation that a cop lied, or that state-witness perjury is never prosecuted.

The trick seems to basically be:
1) Instead of saying that you don't have facts or legal argument, the court cites to another case that said the appellant in that other case didn't have facts or laws.
2) The court then uses that other case as precedent, to say that this court can say that you don't have facts or laws, and use that as a legal excuse to not consider or even read your allegations.
3) And say that justifies dismissing your case, without citing any facts or laws that justify the specific legal reason for dismissal (e.g. lack of standing, failure to state a claim, immunity, whatever).
4) Because you cannot produce new facts at the time of appeal, so the appeals court in that other case had no facts to agree or disagree with, and so could not consider that part of the appeal.

But even if you did provide facts and laws and have not even reached discovery, like in my case, Judge Mendoza will cite Astrue instead of those facts and laws, just as an excuse to not even read a complaint. And even though in Astrue, the appeals court inventoried the facts and laws the appellant alleged but failed to support with evidence prior to appeal and case law.

The tipoff, is that when you really don't have facts, a judge comes right out and says the facts you don't have to support your allegation. A judge says "a cop driving past you twice is not illegal detention". Instead of citing to another case that didn't have facts, to give the color that it is legal to say your case doesn't have facts even though it does, and dismiss it.

If you really haven't cited a law, a court will say "the plaintiff said XYZ but didn't specify the law". A court doesn't need to cite Astrue, to point out you have not cited a law, or to disagree the facts match it. Astrue is only cited to give an excuse to not even read your alleged facts and laws. The moment a court reads your actual facts and laws, the Court addresses them, instead of citing Astrue to say the Court doesn't have to respond. The Court will say "you have not cited a law which makes looking through a car window a rights violation". Not "Astrue says I can dismiss your case without mentioning any facts or laws."

Here is a table which shows the differences between what the appeals judge did in Astrue, and what Judge Mendoza did in my case and might do in yours. Notice that in Astrue, the appeals court refers to the facts and legal arguments of the case and why they create the ruling. But in your case, a district court might just say "See Astrue, dismissed."

	U.S Steel v. Astrue	Your Case
stage:	appeal of first impression on new legislation from the district	motion to dismiss before discovery
burden:	appellant must produce conflicting case law or argument on existing factual record	facts accepted as true, burden on moving party
Allegations	appellant brief	plaintiff complaint
fact:	alleges previous SSA assignment reversals	you have alleged facts as witness (the format of your complaint is the facts for shotgun)
law:	argues failure to reverse assignment is capricious	you have cited law that fits your facts (or pleading standard in objections to Report)
Ruling	(on argument for appealed issue)	(on motion to dismiss before discovery)
fact:	not enough evidence of previous reversals in the record from the trial court	court has no facts - see Astrue
law:	no conflicting case law for new legislation that says non-reversal is capricious	court has no law - see Astrue
	cannot consider this issue on appeal	dismiss case - see Astrue (citing immunity, standing, failure to state a claim, shotgun...)

34. Spurious Color of Case Law Scam

Judges can be complete lunatics, they can cite case law wrong and write complete nonsense, but as long as they bootlick the executive branch and make politically viable outcomes, they can make it to the top. Some judges are so dumb they know not to take a risk even trying to measure law, just play it safe by measuring political convenience. It doesn't matter how superficial or idiotic and confused their case citations are -- or how you attempt to use case law logically in response to them -- only the political viability of the result matters. And even a blind idiot judge can find that path of political viability by just catering to the executive branch. Any judge or lawyer can run his business entirely on doing what the executive branch wants, which makes up for all lack of logic or honesty in case law.

Citations to cases by judges are just fake window dressing, they have a toolbelt of cases

they can cite in such general ways to support whatever they want to do. Don't imagine for a minute that the type of legal analysis the Supreme Court does when people are looking, is what the average judge does on the average day in most cases. And don't imagine the Supreme Court would bother granting certiorari to fix any of that fake nonsense. Or that any other appeals court would stick their neck out to support actual law, rather than some agenda.

Judges can recite lies that no party said, and nobody will ever know or care but the person lied about (and maybe some desperate sociopathic government lawyer who gets judges to do this as his job). Judges' best strategy is to just say as little as possible and give no reason. And as long as it serves the executive branch, nobody but the victim of this nonsense will ever care. There is no law in courts like you have been encouraged to believe there is. Lawyers are just gagged from being honest about what courts do. Anybody who tells the truth about what goes on in courts, the first thing that will happen is judges will bar them from ever coming to courts again.

35. It's Up To The Jury to Decide What Is True Scam

State witnesses are allowed to lie. But many trial-court judges are blind even to the simple concept that that is what's going on. Because they literally can't separate out the truth from social consensus. They would say what do you mean state witnesses are allowed to lie, they are saying what we think is true. They are not being allowed to lie, they are being allowed to say the allegations. When the prosecutor is saying it, it is not a lie. It's up to the jury to decide if it's a lie. The trial court judges don't see it as lying, they see it as the prosecutor doing good or even just being adversarial, where truth is irrelevant. Some judges have a more pragmatic attitude that lying is what state witnesses need to do, to get done what courts need to get done. But other trial-court judges, their minds are so captive to group-think and religious recitation, that they really think

whatever police want to say is true is true.

When a sociopath lies, you might ask does he know he is lying, or does he really believe this is true? It could be neither. Saying what he says is not logic or communication, it is strategy. It's cause and effect, meaning I say this, and then as a result this happens. When you hit a nail with a hammer, it's neither true nor false, it's just obtaining a result. However you want to describe the bizarre mental process of judges, it does not need to operate in the standard way people think of true and false, it's charade and ritual. It's results-oriented speaking, not information-oriented. They say this thing or say that thing, as a ritual to protect cops doing what they want. Government employees in court are hardly different from political bots on social media, they say talking points to manipulate their audience.

IV. REGULATING THE COMMUNIST REBELLION OF JUDGES

36. Game Theory and Judicial Philosophy

Why do all judges, regardless of political affiliation, appear to be such smug degenerates, who will recite lies to pretend they are following the law, while doing whatever they want and helping their connected peers?

Their behavior can be explained using game theory, like the "prisoners dilemma". The husband and wife did not cause their baby's accidental injuries. But if they both say neither caused the injuries, they have both been told by their lawyers they will get the death penalty. Even though in reality, they would both win at trial and get to go home. If one says the injuries were not accidental and the other caused them, the liar gets to go home. So they both lie that the injuries were intentional but the other caused them, and they both go to prison.

Prisoners' Dilemma Game Theory Matrix		
baby dies from accident	husband says accidental	husband says wife did it
wife says accidental	both go home	wife gets death penalty
wife says husband did it	husband gets death penalty	both get life in prison
To defend themselves from death at the hands of the other, both prisoners lie that the death was intentional and that the other one did it.		

In a similar manner, judges with opposite philosophies have to ignore the law or lie, to prevent the other side from winning. And end up with a worse result than if both sides followed the rules.

There are two kinds of judges. The first kind is smug jerks who think the law doesn't matter, and do what they think is justice. These are called left-wing or activist judges. They think the majority of voters will do evil, or elections will be rigged by the rich. But they also think the written law is not good enough, because the death penalty is legal, or just because the world is unjust or imperfect.

The second kind is childish idealistic fools, who think the majority of local voters are more virtuous than these jerk judges. And can regulate the executive branch using political speech and elections, rather than due process.

These are basically utopian communists. They know voters could never monitor the behavior of McDonalds managers and vote to make sure they are cooking what people want. But they imagine the same information and monitoring problems don't exist when voters are regulating government such as police. These judges are basically total dweebs and useful idiots for the executive branch, turning a blind eye to the evil nature and deeds of man.

Judicial Philosophy and Strategy Board		
Judge's Own Opinion of What is Right:	voters are / courts are	Law says:
I know what justice is in each case.	not virtuous / virtuous	What executive branch can do.
Executive-branch peers are virtuous.	virtuous / not virtuous	Executive branch can do what they want.
Both sides move to squares to defend against the squares the other side has occupied. Both sides lie and ignore the law, whether to defend what they want from judges, from voters, or from judges who defend from voters.		

Notice neither side says the law says what executives can do. Because the first kind of judge knows that would let the second side write unjust law. And the second side knows the first side would use the power of courts, to force their own idea of justice on the executive branch. So they both say there should be no law regulating the executive branch, one side because they want freedom to do what is just in court, and the other side because they don't want the executive branch to be governed by the whims of the first side in court.

You need courts to enforce law. But one side fears the law and the other side fears the courts. The end result is both sides try to monitor and supervise the executive branch through politics, rather than courts regulating executive-branch decision makers.
This is done for the same reason that power is taken away from private business decision makers, because they are not trusted. The end result, of destroying courts with lies and agendas and trying to make decisions using the collective will, works no better in government than in industry.

When the correct strategy is to simply get judges to follow the rules. By promoting the

idea that they should, and with self-regulation to do so, by a senate of judges. But that is not popular among people who actually become judges, or among those who elevate them to become judges.

37. Judicial Culture of Lawlessness

There are sadistic judges who have no shame to just help their friends, and harm people for sport. But there are also judges who seem to think they are doing good, by reciting lies and ignoring the law. Whether they think they are doing evil or good, the one thing all judges have in common seems to be lying and breaking the law. To make the facts and the law what they wish they were.

Judges who invent rights that are not written, such as saying the death penalty is illegal, may see themselves as selflessly creating justice rather than helping connected people. Even though they are indulging their own agenda and sense of moral superiority. I think there is an academic Cass Sunstein who actually says judges should just do what they want in each case without having anybody else's instructions conveyed to them as laws.

Other judges say just let the executive branch do what they want. They don't think generalized situations can be contemplated in advance by law, to tell the executive branch what to do in specific situations. The difference is they see executive-branch employees exercising this arbitrary reasoning, rather than judges. Because the executive branch is simply more virtuous and connected to the people, than aloof judges.

Judges who write an agenda of abortion and guns and police immunity into law, also imagine they are doing something idealistic and moral. But these judges are actually able to delude themselves that they are doing what the law says, when turning regulation of the executive branch over to the perceptions of the mob. These judges are smug

degenerates who think that helping members of their faction such as police, is actually morally and legally justified.

They think that by helping connected parties, they are doing something virtuous. Because the preferences of people in their network are more virtuous than people who oppose those preferences. They are promoting a religion. They think that because the connected parties they favor are police, who protect the property of local rich people, that they are standing for "peaceable order" rather than "pandering to mobs" (Ann Coulter's words). They think the discretion of the executive branch is virtuous either a) because it is regulated by voters, or b) because the preferences of their connected peers are more virtuous than people who oppose them (i.e. "good fellas").

These judges imagine there is a more virtuous and less virtuous mob. But all mobs have bad information. Just as the only mechanism for supervising businesses is the price system, the only mechanism for supervising police is courts and law. These judges ignore that executive-branch employees being regulated by the collective will of the local majority faction is impractical, as was noted as early as Aristotle in "Politics". Voters simply cannot know what individual government employees are doing. The only way to monitor government employees and give them incentives to follow the law and do things that is actually beneficial, is by constantly dragging government employees into court.

Whereas the other side may think they are more grounded in the realities of the world -- the corrupt and evil nature of man -- and protecting people from them. But they ignore that the law must give them license to do what they think is justice. This first side thinks the abstract meaning of the law, is protecting justice and civil rights from forces that exist outside of courts. That is true, but the extent to which that is true cannot be

invented arbitrarily by judges.

The second side thinks the abstract meaning of law -- the interpretation of law on new and different facts not specifically articulated in law -- is whatever happened previous to law. They say that when you have to fill in the blanks of what law means -- anything that is not clearly written -- you look to the primitive barbarism of history. They think when a law tries to be general and create an abstract principal, that is not good enough to create a change in specific actual cases, from what happened in ancient times. They are like a genie who grants the wishes of legislators, but always screws you by using the details legislators didn't think to include in your wish, to worsen your condition rather than improving it. They do this based on an assumption that collective political surveillance is superior to legal regulation for supervising and monitoring government activity, and is what law is traditionally meant to achieve.

The first group of judges thinks they know better than the majority or the limits of written law. The second group thinks the majority knows better than the law or the first group. In the end neither group follows the actual law.

The first layer of any judge, is the extent to which he is a smug degenerate who feels no shame for ignoring the law to fix court outcomes or favor some peer he is connected to. Or whether he is more self conscious of this, and believes idealistically that judges should enforce the law, but still does what is "pragmatic" though not relishing in it. In the end, judges are selected to the extent they create power to do what they think is right, meaning promote some agenda or protect their religious organization. A judge who only enforces the stale and dusty law, creates power for no man or agenda.

38. Mind Blindness Shapes Judicial Philosophy

Object permanence is imagining things even after you can no longer see them. Mind blindness is failing to imagine things other people can see at their vantage point. Communism is over-imagining that everyone can see the same things. Totalitarianism is people who can imagine things other people can't see but will imagine, taking advantage of people who imagine everyone can see everything. Communists imagine the government can see what McDonalds managers can see, what inputs cost and what customers want. Federalists imagine elected officials can see what voters want, and voters can see what government employees are doing.

People imagine more perfect information than there actually is, that each node can know and process more information than they actually can, and more interconnection than is possible. Cops are supposed to tell judges what they witnessed, and then judges decide if there is probable cause. But Federalists think voters can see what cops see, and vote to make sure they are not violating their neighbors' rights. The Nieves doctrine says you have to plead that a cop could not have imagined a crime at his vantage point, based only on things you witnessed at your vantage point. Plea bargains don't violate your right to a trial, assuming you can choose not to take one. But someone in jail does not know what the law or evidence is, only his lawyer does. Judges and prosecutors know jailhouse confession witnesses face a reward and no penalty for lying the prosecution narrative. But they let jurors imagine state witnesses face a penalty for lying, and therefore must have witnessed real evidence.

The second vantage point mirage, is the idea that multiple people all have the same vantage point, as might have been somewhat more true in a simple tribal society. This basic error underlies most political ideology and conflict. People gain power by controlling what others see, and then pretending the decision is made by a person who is imagined to see everything. Civilizations evolve distributed decision making, such as

private business and jury trials, to process as much information as possible. Then the human impulse to imagine things can be perceived and controlled from a single vantage point, usurps the power of private decision makers by controlling the flow of information between nodes to fix decisions. This takes advantage of things people can't see to harm others, rather than mobilizing private local information to serve others.

39. The Economics of Law

Law functions when people can do more harm to others by following law than by breaking it. The separation of powers amounts to channeling people's natural impulses to harm one another, into checks and balances. So that the law is given force from the fuel of human malice.

Judges would like to lock competing proud people in their basements and torture them. Governors would like to lead hordes to slaughter whole cities. The law gives the greatest number of such people the chance to come as close to their dreams as possible, through the act of enforcing the law upon others. Sort of like a football game gives people something to humor their impulses.

It has been noted since Adam Smith that the baker bakes bread not because he is generous, but because he is greedy. He is surrounded by social institutions and incentives, that enable him to serve more of his own lusts by baking bread that other people want to buy, than by deciding any other course of action. The baker can buy more hookers and fishing boats, the better his bread is.

Society has evolved to process as much information as possible, by using distributed decision making. To process all the information that needs to be processed, to make all the decisions that need to be made to benefit society, requires distributed decisions made

by independent local specialist decision makers. Each person applies his own knowledge to the information right in front of him, which information is known to nobody else. The more things are instead decided by a social collective from a mushy vantage point, the less information and expertise they will use, and the worse the decisions will be.

It is easy to understand how the price system, and courts providing civil lawsuits and prosecution of fraud, convey the incentive to the baker to bake bread, rather than to poison people. The problem with criminal courts (and many other decision institutions), is that you cannot turn deciding who is guilty over to the price system and "the free market", to spontaneously create independent decision makers. You have to make the decision using some combination of voters and government employees.

The purpose of "due process" is to manufacture such an incentivized and informed private decision maker without the price system. That is where judges and juries come in, which are supposed to function like independent businessmen, making private decisions which nobody else will ever have the information to know if they were right.

For jury trials, the judge brings the domain expertise by instructing the jury. The decision-specific information is provided to the jury by the prosecution and defense (needing separate institutions to make sure they don't lie). The public benefit is conveyed to the jury in the rules of the laws themselves, rather than by prices. And the interest of the prosecutor to convict the innocent for votes, or of the public to decide who is guilty based on gossip - the human impulse for the collective to decide - is removed, by handing the decision on guilt over to this independent decision maker.

Checks and balances provide a limited form of competition, where different departments make sure other departments are following the rules to reach their decisions (deter

breaking the rules with occasional severe punishments), even though they can never have the resources to double-check whether each decision was right.

But you are still left with the problem: Does a state governor or local judge get more chances to satisfy his lust to harm others, by following the law or by ignoring it? Can a governor harm more people by prosecuting cops who lie, or by letting cops lie to prosecute thousands of innocents? Can a judge get more pleasure by harming the ambitions of the governor or prosecutor, or by cooperating with a governor or prosecutor to harm the innocent and fulfill his religion?

It is supposed to provide great pleasure to judges to lord the law over governors and prosecutors. The enjoyment of standing in the way of some vain scumbag like Ron DeSantis, should satisfy the vanity and self importance of the most sadistic judge. The problem occurs when the state governor or prosecutor still has some power over the judge, so that the judge cannot totally force the prosecutor or governor to submit to him. Such as if the prosecutor or governor can stop a judge getting elected, or influence the judge through other political or financial motivators.

The executive branch can also dominate the judge if the governor or prosecutor can simply provide lies in court, which lies the judge is then forced to apply the law to. Or they may all be bound to cooperate in breaking the law, possessed by a religious mission to subvert the law.

And remember, newspapers can't uncover the lies and incite the public against government officials, because who decides who gets sued for defamation? The government. And they will say reciting the government's politically popular lies is a protected First Amendment right, whereas anything else you can be sued for. And when

police retaliate for political speech by arresting you, the legal standard is that you have to prove a cop you never met innocent of imagining the possibility of a crime from your own knowledge, before being able to confront the cop as witness or make him produce discovery of what he really saw. So just like the baker makes more money by deciding to bake bread people like, publishers make more money by deciding to print what the government wants them to print, without needing to spend money on investigative journalists, editors, or lawyers.

So the judge is faced with a "plata o plomo" problem, to cooperate with religion by applying the law to lies, or to stand in the way of the executive branch and suffer the consequences? So judges and the executive branch come to a truce, where prosecutors and state witnesses are allowed to lie to the court, and judges are still allowed to enforce the law, just applying the law to the "facts" selected by government, by assuming those lies are true.

A member of the executive branch can always harm more people, and make more members of the bloodthirsty mob happy, by ignoring the law. The only solution to this, is when judges can obtain pleasure by forcing total submission on such executives without fear of any cost. And when the malice of other judges, and the law, filter through some structure of pride and vanity and power, to where judges can lord over each other more by following the law than by ignoring it.

So the entire structure of society, meaning the creation of independent decision makers through rights, depends on whether judges can choose to get more power and pleasure and pride by following the law than by ignoring it. This is undermined when following the law has disincentives, such as when following the law creates more work than ignoring the law, or when judges who follow the law suffer revenge from the majority

faction. Or when subverting the law serves their utopian religion. Religion is a competitor to law, if they seek to harm and protect different activities.

The survival of a civilization ultimately comes down to whether the people demand judges follow the law as independent decision makers, or whether the people demand judges enforce the majority's own collective whims and accept popular gossip as fact, meaning do whatever voters decide judges should do in each decision. If the people turn judges into members of the executive branch and majority religion, rather than having a fetish for judges enforcing the rules of the law on the powerful, then rights and independent decision makers give way to the collective will enacted through the executive branch, like most nations through most of history.

40. Charlatans Dressed Up as "Power To The People"

No judge will ever lose his job for reciting too many government lies, or giving the government too much immunity. Law really is no more complicated than that. Though if you are gullible enough to think it is, judges will make up some sophistry for you to chew on.

And if their sophistry protects cops, they could even be hailed by the entire government as geniuses. Don't believe this hype. Don't get contemplative from some scam-artist judge who says you can't make a lying cop produce discovery, or a cop can lie to search you and use that evidence in court. Don't think maybe you are just not smart enough to understand it and play their game. The only skill you need to beat this scam, is to not be a gullible parrot for excuses which always create, rather than examine and check, executive-branch power. As if executive discretion is naturally exercised virtuously, but separation of powers and distributed decision making is less virtuous than the primitive state of man.

Recognize such judges for what they are, not geniuses who found some true meaning in ancient scrolls. They are all just charlatans.