

SHIFTING THE BURDEN OF PROOF

Declaring something as true unless it can be proven false.

AKA: appeal to ignorance, demanding negative proof, ad ignorantiam

- Why don't you believe in angels? Can you prove they don't exist? Why say you don't believe in angels when you don't have any evidence on your side?
- I've never seen any evidence that proves our planet hasn't been visited by space aliens before, so I continue to believe.
- God told me last night that I'm the new king of the world. What do you mean you don't believe me? Do you have any proof?

The burden of proof should always be with the person who makes the claim. The claim should only be accepted as true if it can be supported with sufficient evidence. This is not a matter of stuffy debate etiquette, but a product of logic and common sense. The American justice system offers a simple example through the concept of *innocent until proven guilty*.

If the burden of proof were switched, we would accept anything as truth until it can be disproven. If someone said pigs can

fly, unicorns are real, and Donald Trump's hair is an alien being that controls his mind, you would have to accept these beliefs as fact until we find proof of the contrary. Of course, proof of something that isn't can be difficult to come by. Maybe pigs only fly when we're not looking. The unicorns could be deep into unexplored terrain. The alien hair could be a perfect mimic. This is part of the reason why the person making the claim is responsible for providing evidence. It's often difficult or even impossible to prove that something doesn't exist or didn't happen.

Burden of proof comes down to the same simple truth as other fallacies: If you want people to believe you, you need to give them a decent reason why. And if you can't offer any evidence to back your claim, why are you even making it in the first place?

Anytime someone makes an adamant claim without evidence to back it up, they are essentially shifting the burden of proof. Consider this conversation between Ohio Governor John Kasich and oversized child Sean Hannity:

JOHN KASICH: Part of the problem was we got in the middle of a civil war because we thought Saddam had weapons of mass destruction—

SEAN HANNITY: I still think he did.

KASICH: Pardon?

HANNITY: I still think he did. I think he got them out in the lead up to the war. And I think he brought them to Syria.

KASICH: Well, you know, maybe he did, but the fact is—you know, look, the fact is that if—well you say he had them, I don't know. There's no evidence to say he had them.

Hannity makes a claim with no proof to support it. If we had discovered WMDs in Iraq, that would have been proof of their existence. Of course, we didn't. Kasich cannot prove that Hannity's claim is wrong, but he shouldn't have to. Kasich's lack of evidence to prove Hannity wrong matches Hannity's lack of evidence to support his claim, so there is no reason to believe it in the first place. For more examples of baseless claims, read just about any tweet by Donald Trump.

Here's another way to look at it. True and false are mutually exclusive, like a coin toss. If it lands on heads, we know it didn't land on tails. If it's tails, we know it isn't heads. But if we don't know if it landed on heads (maybe a friend tossed it but didn't reveal the outcome) that doesn't mean we assume it was tails. The absence of proof that the coin landed on heads is not proof that it landed on tails. Apologies to any millennial readers who only use PayPal and have never touched a coin in real life. Maybe a story will help.

A man purchases a plot of land. To make the land more valuable, he claims that it was the site of a Civil War battle. This is despite any evidence supporting such a claim. No records of any military orders pertaining to the battle. No newspaper articles about the conflict. No personal letters or journal entries from soldiers. When the man is challenged by critics who say no such battle ever

occurred, he simply responds, “How would they know that? Were they there?”

This argument shifts the burden of proof. The landowner demands that others provide evidence the event never happened and for everyone to accept the claim unless such evidence is provided. Why would such evidence exist? Who would write an article about a battle not occurring? What artifacts could be uncovered from the land that prove no battle took place?

Aside from not being a sound logical argument, this claim would be absolutely disgraceful. It rewrites American history, belittles the tragedy of the Civil War, and uses the memory of those who sacrificed everything, all in the name of greed. Unfortunately, this is not a fictional example. The person who made this fallacious claim was the unfortunately not fictional Donald Trump.

Trump purchased the property, a golf club in Loudoun County, Virginia, in 2009. Among the many upgrades he made to the land is a historical marker with this inscription:

“The River of Blood”

Many great American soldiers, both of the North and South, died at this spot, “The Rapids”, on the Potomac River. The casualties were so great that the water would turn red and thus became known as “The River of Blood”.

It is my great honor to have preserved this important section of the Potomac River!

Trump doesn't seem to know how tacky exclamation points look on a monument to fallen soldiers, but that's not even the worst part of the plaque. Nor is the use of the word "preserved" for an area where Trump clear-cut hundreds of trees to make for a better view. The most outrageous part of this inscription is that the Civil War battle it refers to never took place. No battle happened there at all, let alone one with notably high casualties. Trump's story was completely fabricated. Not contested, based on questionable documentation, or a topic of debate among historians—this story was entirely imagined.

Let's go back to Trump's quote from earlier: "How would they know that? Were they there?" These are the remarks Trump made after historians refuted his claim. By shifting the burden of proof, Trump demands for his lie to be accepted as truth, despite a complete lack of evidence.

Also notice that Trump avoids specifics. The more details you give, the easier it becomes to discredit. Which regiments were involved? Who were the field officers? What was the date of this terrible battle, or battles? This is all information you would normally find on historical markers.

If any of this information were given, historians would have something to confirm or deny. They could look at records and documents to confirm if those people actually existed and if they and their regiment were even in this area at the date of the supposed battle.

Let's give Trump the benefit of the doubt and say that even without any reason to believe his claim, there exists a chance, an extremely unlikely and insignificant possibility as close to impossible without being impossible chance, that the events he describes did take place and there just happens to be no evidence of it. It's just as possible that aliens from outer space once landed on this spot by the Potomac. It's just as possible that this spot along the Potomac will be the future location of Christ's second coming. Any random and baseless claim you make is just as likely. It could be true, but there is literally no reason for anyone to believe it for a second, let alone to accept it as solid fact.

Now it's your turn to try it at home. Create your own historical markers and display them around your community. Using the Trump methodology, don't worry about it being even remotely true. As long as you make the claim, others must believe it until it can be disproven. Just like Trump, be careful to avoid anything specific like names or dates. Vaguely assert that something happened at some time. Your sign can say anything you want, but here are some samples to get you started:

One day, at this location, Donald Trump spit on a homeless war vet.

It was on this very elevator that Donald Trump once kicked a puppy for growling at his hair.

Here is the place where Donald Trump once wet himself, just a little, while watching an obese man eat a kebab.

Remember to include in fine print at the bottom:

This statement is based on the same amount of evidence as Donald Trump's claim that American soldiers died fighting in a Civil War battle on a golf club he owns.

Speaking of awful human beings, the next example comes from Texas Governor Greg Abbott.

Wait, no . . . too cheap.

Transition, take two;

For this next example, we move from the American Civil War to the Syrian Civil War. Between President Assad and ISIS, Syrians have good reason to fear for their lives. Over two hundred fifty thousand people had already lost their lives since the turmoil began in 2011, and about half of the country's population was forced to leave their home. The United States and other countries have taken in refugees fleeing the violence of this war-torn nation and continue to do so. However, some U.S. politicians would like to see these efforts cease. Specifically, the fear-mongering opportunistic ones. In the wake of the November 2015 Paris attacks, many U.S. Governors used the fear of terrorism to argue against allowing Syrian refugees from being resettled in the U.S.

Texas Gov. Greg Abbott wrote a letter to President Obama explaining why he believes we should stop allowing Syrian refugees into the country:

Neither you nor any federal official can guarantee that Syrian refugees will not be part of any terroristic activity. As such, opening our door to them irresponsibly exposes our fellow Americans to unacceptable peril.

In the words of Will Ferrell's "Mugato" character from *Zoolander*, "He's absolutely right." Obama cannot guarantee that any Syrian refugees will not be part of any terroristic activity. The fun part about Abbott's statement is that you can replace *Syrian refugees* with any other group of people and it would be precisely as true. Mormons, cat-lovers, thespians, Texas Governors . . . Obama cannot *guarantee* that any of them *will not be part of any terroristic activity*.

Abbott shifts the burden of proof. No one can guarantee that anyone won't become a terrorist. Putting aside the obvious racism in assuming Syrians are probably terrorists, Abbott's comments are also misleading. They give the idea that we're allowing any Syrian refugee to enter the country without first looking into who they are. Nothing could be further from the truth.

According to the United Nations High Commissioner for Refugees, "Of all the categories of persons entering the U.S., these refugees are the single most heavily screened and vetted." Refugees must complete extensive interviews, reference checks, and biological screenings like iris scans. Of those who pass, only those deemed most vulnerable are recommended to be transferred overseas. Once referred to the U.S., another level of intense scrutiny begins with nine government agencies working together. The

whole process can take two years. About half of those accepted are children, and a quarter are over sixty years old. Only about 2% are unmarried men of “combat age.”

This is the perfect proving ground for shifting the burden of proof. Despite putting Syrian refugees through the highest level of screening any person traveling to the U.S. encounters, it’s still impossible to prove they won’t become terrorists . . . or shopkeepers, lawyers, or circus clowns. We can uncover evidence that someone is a terrorist or has had suspicious ties, but what evidence could we find that would prove someone will never commit an act of terror?

Despite the many politicians who supported Abbott and his fallacious argument, there were others like Delaware Gov. Jack Markell who chose not to prey on his constituent’s fear:

It is unfortunate that anyone would use the tragic events in Paris to send a message that we do not understand the plight of these refugees, ignoring the fact that the people we are talking about are fleeing the perpetrators of terror.

FALSE DILEMMA

Only presenting a small number of options when others exist.

AKA: false dichotomy, black and white, either-or, excluded middle

- Are you Liberal or Conservative?
- We either cut teacher salaries or lay teachers off.
- “George W. Bush: great president, or the greatest president?” – Stephen Colbert
- “Rhythm, you have it or you don’t, that’s a fallacy” - from the song *Clint Eastwood*, by Gorillaz

You could be politically moderate, have a mix of liberal and conservative views, or not care about politics at all. Budgets are complex, it is never as simple as choosing between two paths. Colbert’s question suggests (satirically) that nobody could dislike President Bush, so why offer that as a choice. If you’re not a naturally talented dancer, you can still improve with practice.

False dilemma means only a small number of options, often two, are provided. Taking complex issues and boiling them down to A or B situations makes it seem like there are no alternatives. This fallacy can be used in a variety of ways. When the two choices are extreme opposites, all of the gray areas and reasonable compromises are ignored. False dilemmas are also used to make two

choices seem mutually exclusive, so that you can only believe one or the other. Many times, like in the following example, one option is portrayed as being deplorable so that there seems to be only one viable option.

In February 2012, Canadian Public Safety Minister Vic Toews made this statement in the House of Commons: “He can either stand with us or with the child pornographers.” And let's face it, if there's one group you don't want to be standing with, it's the child pornographers. Even though Canadian child pornographers have got to be the nicest of all child pornographers, they're still child pornographers nonetheless.

Toews was attempting to build support for Bill C-30, the *Protecting Children from Internet Predators Act*. The false dichotomy makes it appear that voting against C-30 is akin to supporting child pornography. While the average Canadian is against that sort of thing, many were concerned about the way Bill C-30 approached the issue. Citizens and organizations felt the law would have infringed on rights and privacies, their leaders heard them, and the bill failed. Despite Toews's claim, there is such a thing as middle ground. It's possible to be not so into child pornography and still dislike a bill that fights crime by violating basic privacy rights.

What the bill would have done is, to grant the government new tools to monitor citizens online, require service providers to document certain activities, and impose mandatory back-door entrances for government agents. A bit odd, since pornographers would probably love the sound of mandatory back-door entrances.

Titles of legislation like the C-30 *Protecting Children from Internet Predators Act* are not named by accident. Certainly you notice how “C-30 P” brings to mind the *Star Wars* character C-3PO and thus etiquette, protocol, and the sort of British gayness Canadians adore. More to the point, the title *Protecting Children from Internet Predators Act* sets up a false dilemma for any politician set to vote on it. You can hear the attack ads now: “Senator Maple-Hockey voted AGAINST protecting children from internet predators, eh!”

Anytime you have to vote for or against something, a false dilemma of sorts is created. You may have mixed feelings, but your ultimate yes or no vote gives the appearance of full or zero support. This is an issue legislators face each time a new bill is voted on. While you can learn a lot about a legislator from their voting record, it can also be misleading.

Be skeptical whenever you see an attack ad rattling off a candidate’s voting record. There could always be more to the story that the ad doesn’t mention. So they voted against a school funding bill, and that sounds bad. But maybe they wanted to vote for a different bill—one that offered more funding, or raised the funds in a different way.

Back in the good ol’ U.S. of A., we play the same fallacious name game with legislation. Vote against the *USA Patriot Act* and you’re not patriotic. Vote against *No Child Left Behind* and you leave children behind. BEHIND!!!

Another Bill, introduced by U.S. Rep. David Rouzer, was titled the *Don't Ignore the Will of the American People Act*. From the title, you might assume this law broadly grants more governing powers to citizens, or possibly allows stronger oversight of elected officials. Rather, the bill is “To prohibit the obligation of certain funds until the Administrator of the Environmental Protection Agency withdraws the rule relating to the definition of ‘waters of the United States.’” Just a little more specific—and completely unrelated to the title—than you are led to believe.

As for the controversial *USA Patriot Act*, several amending bills have been proposed. There's the *Protecting the Rights of Individuals Act* (call it what it is), the *Benjamin Franklin True Patriot Act* (maybe a little name-drop will boost support), and the *Security and Freedom Ensured Act* (fuck it, people like the word *freedom* right?). None of which passed.

As seen in the name *No Child Left Behind*, famed bathroom self-portraitist and forty-third President of the United States George W. Bush is no stranger to the false dilemma. One might even imagine them as old friends, perhaps growing up together on Bush's Texas ranch. That is until one remembers Bush did not buy his ranch until 1999 in order to seem like the kind of guy who owns a ranch during election season. You won't see any livestock on this ranch, since Bush is not actually a rancher in any sense of the word. If you're lucky though, you might glimpse a herd of sweaty men and women attempting to join “The President's 100-Degree Club.” When the temperature rises above 99 degrees Fahrenheit, ranch

visitors are challenged to run three miles or bike for ten without stopping. Those who complete the challenge are awarded with a shirt that reads “The President’s 100-Degree Club.” Presumably, the original plan was for the shirt to say: “Is this what people do on a ranch? I honestly do not know, for I, George W. Bush, am not a rancher . . . I do not know how to ranchificate, heh heh heh,” but that was deemed overly verbose.

To his supporters, Bush was the president who spoke like a guy you wanted to sit down and have a beer with. His critics noted that he sounded like he already had a few before each speech. Despite his regular assault on the English language, Bush spoke loud and clear on September 20, 2001 after the 9/11 attacks: “Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists.” Bush continued, “From this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime.”

This statement is a false dilemma. It’s likely that many nations do not support terrorism, but also do not want to be involved in Bush’s “War on Terror.” We can credit the president for the clarifying line that says from that day forward, “any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime,” but the false dilemma still remains. There will be countries that do not support terrorism that do not want to be “with” the U.S. on this one. Especially if it would mean, say, invading a country completely unrelated to the 9/11 attacks.

With a little refinement, this same general call to arms can be made less fallaciously and even without a veiled threat:

And that is why I swore never to be silent whenever and wherever human beings endure suffering and humiliation. We must always take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented. Sometimes we must interfere. When human lives are endangered, when human dignity is in jeopardy, national borders and sensitivities become irrelevant.

This hawkish quote comes from a Nobel Peace Prize acceptance speech. The speaker was Holocaust survivor Elie Wiesel. The idea is essentially the same, but the difference comes from the words “neutrality helps the oppressor.” He doesn’t claim that neutrality makes you as bad as the oppressor, or deserving of the same fate that awaits our enemies—both ideas inherent to the “with us or against us” idea.

Wiesel is not claiming that bystanders are somehow in league with the enemy, but only reminding them of an obvious truth: terrible people do terrible things and will continue to do so unless they are stopped. Physics nerds can think of it as Newton’s first law of oppression: an oppressor will continue unless acted on by an external force. He’s not denying that other options exist beyond “with us or against us.” He’s only making the point that the choice not to take sides is still a choice, and one with tangible consequences.

For another example, look at Sarah Palin’s July 1, 2016 speech at the Western Conservative Summit in Denver. The Trump campaign was struggling with GOP politicians refusing to endorse him and conservative voters choosing between staying home on Election Day or even voting for Clinton. In her speech, Palin attacked these horrible independent thinkers, labeling them RATs (republicans against Trump.) She also gave an ultimatum: “. . . at such a time as this, you cannot be lukewarm. We’re going to take our country back, and you are either with us or against us.”

Of course, the gray area doesn’t vanish just because Palin ignores it. Trump’s words are often too offensive for many conservatives, and his ever-changing platform does not always align with their core values. As a result, many republicans don’t want to see Trump in the White House and certainly don’t want to feel responsible for putting him there. For that reason, Palin’s words could even deter moderate conservatives. Her declaration of “with us or against us” is the last thing they wanted to hear. They support the party, but might be turned off by the idea of being *with* Trump.

For another example, consider the debates over police brutality. There tends to be a sense of false dilemma in the air that everyone must choose between supporting and hating every police officer in the country. No room for the hazy attitudes, like only being displeased with the cops who murder innocent people. No room for concern over a legal system that too rarely punishes officers for violent behavior without also wishing harm on innocent police officers.

These tensions were back in the headlines during the summer of 2016. Two black men were shot dead by police in separate incidents in Louisiana and Minnesota. During an otherwise peaceful protest in Dallas in response to the killings, a sniper targeted police, leaving five officers dead and seven others injured.

American leaders responded with strong words, like in this quote from President Obama: “I speak for every single American when I say that we are horrified over these events, and that we stand united with the people and the police department in Dallas.” American weasels vented anger towards peaceful protesters instead of the actual murderer, like in this quote by Texas Lt. Gov. Dan Patrick: “All those protesters last night, they ran the other way, expecting the men and women in blue to turn around and protect them. What hypocrites.”

In Patrick’s eyes, you can’t be mad at police officers murdering people AND expect police to protect you. What makes his false dichotomy so special is that the two statements basically say the same thing; you can’t expect the police to protect us AND expect the police to protect us. You can’t expect cops to do their job AND expect cops to do their job. It’s a false monochotomy!

Patrick was not alone in believing that supporters of black people living and police officers living must be diametrically opposed. Patrick was even upstaged by a tweet from Joe Walsh, a conservative talk radio host, Tea Party activist, and former U.S. Representative. Included in his tweet was this lovely threat:

3 Dallas Cops killed, 7 wounded. This is now war. Watch out Obama. Watch out black lives matter punks. Real America is coming after you.

So black people in one group, and “Real America” in the other. That’s nice. It’s understandable that Walsh, like most Americans, was angered and saddened by the horrific ambush. It would be wrong to say the attack was unrelated to the issues that are important to BLM protesters; the shooter was black and claimed to be aiming for white officers because of the recent killings. But Walsh describes a world where everyone must be in one of two camps. He uses the false dilemma to group together all protesters and their supporters with the Dallas shooter.

When you hear a pundit linking extremists to everyday people, they are making a false dilemma argument. It should be obvious to anyone that protesting police brutality is not the same as murdering police officers. But if we divide the entire nation into only two groups, either for or against police, protesters and murderers falsely appear connected.

A day after his original tweet, Walsh posted another message explaining that he obviously didn’t mean for his threat to be threatening: “I wasn’t calling for violence, against Obama or anyone. Obama’s words & BLM’s deeds have gotten cops killed. Time for us to defend our cops.”

Again, grouping together Black Lives Matter and Obama with a mass murderer. Since Walsh claims he didn’t mean to call for any

violence, here's a tip for him, just in case he happens to be reading. That way, he can dodge this mess all together next time. Ready Joe?

If you don't mean to threaten anyone or incite violence, try avoiding phrases that directly infer threats of violence. For example, "this is now war," "watch out," and "coming after you" could all make someone think they are now at war, that they should watch out, or that someone will be coming after them. If you don't want people to think you are threatening their lives, don't blame them for murder prior to saying things like "this is now war," "watch out," and "coming after you."

Hopefully Joe finds that helpful.

RED HERRING

Deliberately changing the subject to avoid the topic at hand.

AKA: misdirection, smokescreen

- Why is it morally wrong for me to cheat on my wife? Her lasagna is terrible.
- Does the shirt make you look fat? I'll say this, your earrings are lovely.
- Are TSA screenings an ineffective invasion of privacy? Well, I support the TSA because they employ so many Americans.

A red herring is a diversion. The name comes from the idea that a kippered fish could be used to distract hunting dogs trying to follow a scent. People use this fallacy to avoid discussing a certain topic. Red herrings can give the appearance that a strong point is being made, when in reality the topic at hand is being ignored.

We often hear red herrings when politicians try to dodge a question. Another red herring of sorts occurs when politicians create a news story to battle against unfavorable headlines. If the economy's bad, give an address on how the war is going. If the war's also bad, release a cute video of the president's dog. You get the idea. So without further ado, on to the blatantly anti-conserva-

tive examples.

We'll start with the 2016 Republican National Convention. Paul Manafort was the campaign chairman for Donald Trump, and he spoke with CNN's Jake Tapper prior to Trump's acceptance speech. The speech was to paint America as a dangerous place that only Trump could save us from. Tapper found that curious:

Tapper: According to FBI statistics, crime rates have been going down for decades. How can the republicans make the arguments that somehow it's more dangerous today when the facts don't back that up?

Manafort: People don't feel safe in their neighborhoods. I'm not sure what statistics you're talking about.

Tapper: FBI statistics

Manafort: The FBI is certainly suspect these days after what they just did with Hillary Clinton.

No. No they are not. The FBI was asked whether or not they would recommend charges against Clinton stemming from the use of a private email server. The response was no. This was an individual decision made by the FBI and it in no way affects decades of crime statistics. Either way, Manafort is simply changing the subject because it isn't one that makes Trump look good. His entire argument is based on a scary crime-riddled country that doesn't exist. Tapper points that out, so Manafort uses Clinton's email server as a Red Herring. Don't focus on Trump's lies, let's

talk about something else instead.

Not wanting to seem connected to Trump in any way, many high profile Republicans avoided the RNC, including George H.W. Bush, George W. Bush, John McCain, Mitt Romney, Carly Fiorina, Marco Rubio, John Kasich, Nikki Haley, Rand Paul, Lindsey Graham, Bobby Jindal, Arnold Schwarzenegger, Condoleezza Rice, and David and Charles Koch. While some republicans had reasonable excuses (Greg Abbott was recovering from an injury) others made it clear that they just didn't want to go. Arizona Senator Jeff Flake said he was staying home to mow the lawn, and Senator Steve Daines decided to go fishing instead. The best excuse probably comes from Senator Ben Sasse. A spokesperson explained that instead of going to the convention, he would "instead take his kids to watch some dumpster fires across the state, all of which enjoy more popularity than the current front-runners."

Moving now from the RNC to the DNC, we see quite a difference. People were actually proud to be associated with the Clinton campaign, so the DNC featured many high profile speakers and attendees. One of the most celebrated speeches was delivered by First Lady Michelle Obama. While the speech was highly praised, we can always count on Bill O'Reilly to fabricate reasons to criticize an Obama speech. Here's the section O'Reilly took issue with:

That is the story of this country, the story that has brought me to this stage tonight, the story of generations of people who felt the lash of bondage, the shame of servitude, the sting of segregation, but who kept on striving and hoping and do-

ing what needed to be done so that today, I wake up every morning in a house that was built by slaves, and I watch my daughters—two beautiful, intelligent, black young women—playing with their dogs on the White House lawn.

Here's O'Reilly response:

Slaves that worked there were well fed and had decent lodgings provided by the government, which stopped hiring slave labor in 1802. However, the feds did not forbid subcontractors from using slave labor. So, Michelle Obama is essentially correct in citing slaves as builders of the White House, but there were others working, as well.

O'Reilly was not overly harsh with his comments. He seemed to affirm that he was being nitpicky and only wanted to clarify some historical facts, not completely dismiss the speech. What he was really doing was changing the subject to detract from an inspirational performance. He ignored the actual point Obama was making, that black people have fought hard to go far in this country; and that the Obama's being in the White House, which was originally built at a time when blacks could be bought and sold, is an incredible metaphor and example of that journey.

The arguments, that some of the workers were not slaves and that the slaves were well housed and well fed, are all completely irrelevant to the point being made. Par for the O'Reilly course, they're also not entirely accurate.

The “decent lodgings provided by the government” was a barn, so maybe “decent” is being used objectively. “Well fed” is also objective. Does he mean well fed compared to other slaves? Compared to free black workers at the time? Compared to a plantation owner?

Jesse Holland, author of *The Invisibles: The Untold Story of African American Slaves in the White House*, took issue with O’Reilly’s supposed facts.

We know as construction workers they were expected to do hard, grueling, backbreaking work, so they had to feed them enough so they could actually get their money’s worth. Were they well fed? That’s not something that, right now, history supports.

We know they were fed pork and bread, but we don’t have any documentation about the amount or quality. Given everything we do know about slavery at that time, it hardly seems reasonable to fill historical gaps by assuming the best. “The food and the barn totally make up for the forced labor, and being owned by another man, and being separated from my family, and basically having no rights. I hope in the future people only talk about the good side of slavery and completely forget the atrocities part.” —slaves, O’Reilly assumes.

O’Reilly’s most factual point is that slaves did not build the White House alone. Of all the workers though, the slaves were the only ones forced to be there. They were the only ones living

through the humiliation of being treated like an object—a life completely counter to that core American value of freedom that Republicans pretend to own. If Obama’s argument had been that slaves were never fed, then maybe O’Reilly’s comment would be warranted. Except for the whole issue of having no basis in fact.

Ultimately, O’Reilly’s red herring represents an awfully disturbed opinion. Somehow, we’re supposed to take solace in the idea (fact or not) that slaves were well fed so that they could handle the grueling manual labor their white owners forced them against their will to perform. Somehow, O’Reilly is disappointed that Obama made this situation sound like a bad thing.

With this next story, we jump into debates over police brutality. First, we need take a moment to define that term. Police brutality is the deliberate use of excessive force by law enforcement. If officers respond physically as needed to a dangerous situation, this response would not be excessive and is not police brutality. The idea of police brutality does not represent a general belief that police officers are bad people, are always in the wrong, or that they deserve some sort of retribution for joining the force. One major issue surrounding police brutality is how rarely we see convictions for officers who deliberately use excessive force. Okay now, consider yourself primed and ready.

As we saw in the false dilemma chapter, those who protest police brutality are often portrayed as diametrically opposed to all police in general. It’s minorities vs. police, cop-haters vs. police, or some other iteration. In reality, the core principles behind such

protests are simple messages that practically everyone should, or does, agree with. Here's the basic argument:

- Innocent people should not be assaulted or murdered by police officers.
- When innocent people are assaulted or murdered by police officers, the officers should be held accountable.

These are not biased beliefs. They're not liberal or conservative. They come from the basic rights that make America the country it is. These ideas become part of minority rights movements because such incidents disproportionately affect minorities, but that doesn't change the core argument. It would only change if you don't consider minorities to be people. This is why you are not likely to hear Republicans try to counter these arguments. Instead, they use red herrings. They change the subject.

Here are three different quotes from former Mayor of New York City Rudy Giuliani as he does just that on NBC's *Meet the Press*:

- *What about the poor black child that is killed by another black child? Why aren't you protesting that?*
- *The white police officers wouldn't be there if you weren't killing each other.*
- *Ninety-three percent of blacks in America are killed by other blacks. We're talking about the exception here.*

No. No we're not. We're talking about police brutality, regardless of what fraction of the overall deaths and assaults it accounts for. The fact that people can die in other ways does not excuse police brutality. Heart disease, car accidents, not making it to the hospital in time because the government of New Jersey caused a traffic jam as political payback . . . we could make a list of deadly red herrings a mile long, but none of them would excuse police brutality. They're nothing more than distractions. And how come avocados are never ripe when you're ready to use them, but then they go bad in like a day? Why focus on police brutality when we're living in a world where expensive fruit has a ridiculous shelf life?

Giuliani was also criticized for his cherry picked statistic that "Ninety-three percent of blacks in America are killed by other blacks." He declined to mention that the majority of all homicides in the U.S. are intraracial. Blacks are usually murdered by blacks, whites are usually murdered by whites. Even if it wasn't misleading, it would still be a red herring that dodges the central question of police brutality.

There should be no reason why we can't focus on and address this problem. The argument is not that police brutality is the only bad thing that has ever happened, or that it is the worst thing happening, or that we should divert all of our resources to this single issue. The argument is that it does happen, and we aren't doing enough to stop it.

"The white police officers wouldn't be there if you weren't killing each other." Aside from being unimaginably racist by blaming

black people for being victims of police brutality, this point by Giuliani isn't exactly a stellar advertisement for police officers either. As long as police are in your neighborhood, someone will probably be the victim of excessive force? Why would that be acceptable?

Giuliani was joined on the show by Georgetown Professor Michael Eric Dyson. Here are a couple points Dyson made to refute the conservative position:

- *Most black people who commit crimes against other black people go to jail. Number two they are not sworn by the police department as an agent of the state to uphold the law.*
- *Black people who kill black people go to jail. White people who are policemen who kill black people do not go to jail.*

Giuliani also spoke on CBS's *Face the Nation*:

If you want to deal with this on the black side, you've got to teach your children to be respectful to the police, and you've got to teach your children that the real danger to them is not the police; the real danger to them, 99 out of 100 times, 9,900 out of 10,000 times, are other black kids who are going to kill them. That's the way they're gonna die.

Is it also 99,999 out of 100,000 Rudy? What about 0.99 out of 1? If Giuliani can't understand that police brutality is bad, as is making horribly racist comments on the news, maybe he can learn something new about ratios. You only have to give one. 9.9 out of 10, 99 million out of 100 million . . . just like the list of red herrings

that don't excuse police brutality, these numbers could go on all day.

Once again, Giuliani offers a fallacious argument that makes our police forces out to be a bunch of monsters. Black children must be taught to respect the police. Okay, it's not the world's worst idea on the surface, and most parents encourage that anyway, but how does it address police brutality? If black children do not respect the police, do they deserve to be victims of excessive force? Shouldn't the issue of police brutality be approached from the side of the perpetrators, and not the victims (or "the black side" as Giuliani calls it)?

Generally, all of the arguments made against people protesting police brutality will be red herrings. They have to be. There is no logical way to argue in favor of excessive force, since it's wrong by definition. The following is a helpful list of common red herring attacks on police brutality protesters with responses you can use against them.

- Most police officers are good.
 - Why would that excuse police brutality?
- Maybe some black people are being disrespectful when they talk to the police.
 - Why would that excuse police brutality?
- You call him "innocent," but he was pulled over for reckless driving.

- Why would that excuse police brutality?
- What about the people who attack police officers?
 - Why would that excuse police brutality?
- My friend is a police officer.
 - Why would that excuse police brutality?
- The police officer saw another officer get hurt on the news.
 - Why would that excuse police brutality?
- Last week, that police officer had to deal with someone who was dangerous.
 - Why would that excuse police brutality?
- Police officers risk their lives for us every day.
 - Why would that excuse police brutality?
- I don't like something a Black Lives Matter protester tweeted.
 - Oh, good point. You should probably go assault an unarmed black teenager now. It's the only logical response.

Next up is Todd Courser, a Michigan State Representative and Tea Party Republican who campaigned on a platform of Christian

values. He introduced a set of bills in 2015 to take marriage out of the hands of the government and into the hands of the clergy. Government officials wouldn't be able to perform weddings, and marriage certificates wouldn't be valid unless signed by a religious leader. The goal was to create a major obstacle for same-sex marriages even if the Supreme Court were to legalize it nationwide.

Todd Courser enjoyed trying to force others to live by his religious values. And yet, he was unhappy. Todd Courser had a problem. He was having an extramarital affair with fellow Representative Cindy Gamrat. Well, that part wasn't really the problem. Despite his Christian values and his insistence that others be governed according to those ideals, Courser chose to willfully ignore a basic tenet of his faith by cheating on his wife.

No, the affair wasn't the problem in Courser's mind. The problem was that someone found out. He started receiving anonymous messages from someone that knew about the affair. (It was eventually discovered that the anonymous person was Gamrat's husband, who planted recording devices in her bag and car.) Eventually the messages turned to blackmail, threatening to go public unless Courser resigned.

Todd Courser didn't see resignation as an acceptable option. That would be akin to admitting he had done something wrong, something he was not prepared to do. It didn't matter if he needed to lie to more people, drag his family through a wild scandal, and use taxpayer resources to do it. What mattered was that Todd Courser would not have to face the consequences for his actions.

Luckily, Todd Courser had a simple solution to his problem. Assuming the story would eventually go public anyway, he would preempt it with a red herring story. He decided to distract everyone from his sex scandal with another sex scandal. An even better one! The fake scandal would have drugs, porn, male prostitutes . . . everything!

Courser chose to make it seem like an anonymous source was leaking the information. This is sometimes called a “false flag,” disguising your actions to make it appear like they were done by someone else. You might orchestrate false flag attacks on yourself in order to gain sympathy or to give yourself an excuse to fight against something. You appear to be playing defense, which seems more admirable than being the original aggressor.

On May 20, Courser sent an email from his fictional anonymous source to activists and media personnel. A few excerpts could summarize the overall message just fine, but you need to read the whole email in order to fully absorb and appreciate the literary genius that is Todd Courser:

Subj: Breaking Scandal - Todd Courser

Breaking Scandal!

State Rep Courser Caught behind a Lansing nightclub!

Christian conservative or Godless Addicted Monster!

Truth!!!! Courser secretly Removed from Caucus several

weeks ago due to male on male paid for sex behind a prominent Lansing nightclub! Action soon coming to remove Courser!

He is a bi-sexual porn addicted sex deviant! All over Lansing since the election and that is why he was thrown out of caucus!

He is a FREAK! He is a gun toting bible thumping cock sucking freak! His whole personalit is a sham! He is a tool pawn of establishment

In past election he was accused of child molestation! And he done things that should have him in jail!

He doesn't work in Lansing he is just there feeding his habit of alcohol drugs and illicit sex! Most days he is high stoned on drugs and alcohol while he is supposed to be voting at the state house!

Rep Gamrat Gamrat knew about it all along and has helped cover for his actions! has played along and been complicit in his sorted activities and has covered for him over and over and her involvement is the real reason she was thrown out! She shouldn't have ever been trusted as state rep or national committeewoman she is a tramp, a lie, and a laugh for this bi-sexual cock sucking monster!

This Teabagger takes his title seriously! Moaning and groaning fucking and screwing man on man man on woman and

whoever he can pay! Pictures and video youtube tell the hoel story and of all of his exploits behind night clubs and hotels at some of the best and worst places in Lansing with all the grinding hot and sweaty sex and drug use – it is too much to hide anymore he is a scam!

You probably have some questions. Don't expect answers here. Why the poor spelling? Are they all mistakes, or does he really not know how to spell *sordid*? Why was it necessary for his fake attacker to call him a teabagger? Who knows? One plausible explanation is that Courser didn't want his red herring to be believed. If these allegations were assumed to be false, maybe news of his affair would be brushed off as well.

Once it was discovered that Courser was behind the bizarre email, the predictable apology followed in which he admits the goal was to distract with a red herring story: "My actions in and around these events and the email that was sent to misdirect attention were my doing both in planning and execution. No one else has the responsibility in those actions, they are mine and mine alone."

In his apology, which came in the form of twenty-seven minutes of audio he posted online, Courser apologized to his family and constituents. He also accused his staff and a political consultant named David Forsmark of trying to ruin him through blackmail, and he refused to resign, saying, "The blackmailer is still operating, goading me, so I'm not sure how big the ring still is."

Another red herring. Don't worry about the adultery or the deplorable cover-up attempt, let's focus on the blackmail instead. Forsmark responded in an interview and likened Courser to that crazy co-worker everyone has to avoid at the office: "He does these three-thousand word emails and everyone's been laughing about them for years. But until recently, I just thought he was mildly amusing." Forsmark also added, "I guess I get to cross being a fever dream of an insane maniac off my bucket list."

Courser made it clear in his recording that he still saw no reason to resign. The most important thing is that he face no repercussions for his actions. That didn't quite pan out though. Ultimately, Courser chose to resign as the house prepared to vote on removing him. Next, Gamrat was voted out. Then, both were charged with felonies. Courser posted a lengthy Facebook rant pointing out how vile some people must be to find joy in his pain, while also bouncing between apologies and bible quotes. He admits to being a hypocrite, but scoffs at those who act as if they are without sin.

This portion of the book was obviously highly critical of Courser, pointing out the hypocrisy of advertising himself as a devout Christian while lying to distract from his affair. If Todd Courser happens to be reading this, please understand that you have it all wrong. People aren't laughing at you for being Christian and doing something wrong. Most people don't actually think Christians are supposed to be perfect. They're laughing at you for attempting to force others through legislation to live in a way that's inspired by

a religion you couldn't even follow yourself. If you're just living your life the way you want to, no one would care. But for a holier-than-thou lawmaker to completely disregard his religion, family, and the law . . . yes, that deserves immense ridicule.

Speaking out against gay marriage, you once said, "The contract that has been in place for thousands of years is between a man and his wife on one side and God on the other side." Let's ignore the inherent sexism there (what's on the wife's other side?) and get to the obvious taunting. How is a man and a wife, and the man's side piece, and her husband, and his bugging equipment forgivable, when a man and a man or a woman and a woman should be illegal?

Perhaps at this point you've had your fair share. Instead of adding to the pile of foul remarks from others, I will simply describe you here in your own words. Your "whole personalit is a sham," and you truly are "a gun toting bible thumping cock sucking freak."

Something something, penis joke transition, Dick Cheney. Now there's a guy who knows how to avoid questions by changing the subject. After his tenure as Vice President, there are a good deal of topics he'd rather not discuss directly. Thanks to the red herring fallacy, he'll never have to.

In December of 2014, Cheney appeared on Fox News' *Special Report with Bret Baier* to defend himself against the newly released Senate report on CIA interrogation techniques. He called it a "terrible piece of work" that was "full of crap." He didn't like the

report.

No surprise there. The report exposed the interrogation program as a useless and horrific program that laughed in the face of the law while violating fundamental human rights. Maybe that sounds over the top. So in the eternal words of Reading Rainbow's LeVar Burton, "But you don't have to take my word for it!"

The Committee makes the following findings and conclusions:

- 1. The CIA's use of its enhanced interrogation techniques was not an effective means of acquiring intelligence or gaining cooperation from detainees.*
- 2. The CIA's justification for the use of its enhanced interrogation techniques rested on inaccurate claims of their effectiveness.*
- 3. The interrogations of CIA detainees were brutal and far worse than the CIA represented to policymakers and others.*
- 4. The conditions of confinement for CIA detainees were harsher than the CIA had represented to policymakers and others.*
- 5. The CIA repeatedly provided inaccurate information to the Department of Justice, impeding a proper legal analysis of the CIA's Detention and Interrogation Program.*
- 6. The CIA has actively avoided or impeded congressional oversight of the program.*
- 7. The CIA impeded effective White House oversight and decision-making.*

8. *The CIA's operation and management of the program complicated, and in some cases impeded, the national security missions of other Executive Branch agencies.*
9. *The CIA impeded oversight by the CIA's Office of Inspector General.*
10. *The CIA coordinated the release of classified information to the media, including inaccurate information concerning the effectiveness of the CIA's enhanced interrogation techniques.*
11. *The CIA was unprepared as it began operating its Detention and Interrogation Program more than six months after being granted detention authorities.*
12. *The CIA's management and operation of its Detention and Interrogation Program was deeply flawed throughout the program's duration, particularly so in 2002 and early 2003.*
13. *Two contract psychologists devised the CIA's enhanced interrogation techniques and played a central role in the operation, assessments, and management of the CIA's Detention and Interrogation Program. By 2005, the CIA had overwhelmingly outsourced operations related to the program.*
14. *CIA detainees were subjected to coercive interrogation techniques that had not been approved by the Department of Justice or had not been authorized by CIA Headquarters.*

15. *The CIA did not conduct a comprehensive or accurate accounting of the number of individuals it detained, and held individuals who did not meet the legal standard for detention. The CIA's claims about the number of detainees held and subjected to its enhanced Interrogation techniques were inaccurate.*
16. *The CIA failed to adequately evaluate the effectiveness of its enhanced interrogation techniques.*
17. *The CIA rarely reprimanded or held personnel accountable for serious and significant violations, inappropriate activities, and systemic and individual management failures*
18. *The CIA marginalized and ignored numerous internal critiques, criticisms, and objections concerning the operation and management of the CIA's Detention and Interrogation Program.*
19. *The CIA's Detention and Interrogation Program was inherently unsustainable and had effectively ended by 2006 due to unauthorized press disclosures, reduced cooperation from other nations, and legal and oversight concerns.*
20. *The CIA's Detention and Interrogation Program damaged the United States' standing in the world, and resulted in other significant monetary and non-monetary costs.*

You can read the full report for an explanation of each finding if you'd like, but you now have an idea of what the report exposed. In

defending himself on Fox News, Cheney coughed up a series of lies and fallacies, but we'll just focus on a couple of the red herrings.

Here's the overall question Cheney is being asked: why would we torture people instead of using the same interrogation tactics we usually use, which are both legal and effective? Since there is no decent answer, Cheney changes the subject every time.

Khalid Sheikh Mohammed . . . is in our possession, we know he's the architect [of the 9/11 attacks], and what are we supposed to do? Kiss him on both cheeks and say, "Please, please tell us what you know?"

No. You're not supposed to ask nicely. You're supposed to use the same tried and true interrogation methods we always use. Cheney uses the bizarre image of a CIA interrogator kissing a terrorist as a distraction. It doesn't explain why we had to torture anyone.

The interviewer Bret Baier asked Cheney about a specific technique:

At one point the report describes pureeing food of one detainee and inserting it in his anus, something the agency called rectal rehydration. I mean, is that torture?

Cheney's response:

I guess the question is what are you prepared to do in order to get the truth about future attacks against the United States?

No Dick, that was not the question. That was a red herring. Cheney is saying, “Don’t think about the obviously unnecessary and ineffective human rights violations. Let’s think about the possibility avoiding of another 9/11 instead.”

Baier also wanted to hear Cheney’s thoughts on “one detainee, Gul Rahman, who died in captivity.”

Cheney responded:

Three-thousand Americans died on 9/11 because of what these guys did. And I have no sympathy for them . . . I keep coming back again to the basic fundamental proposition Bret: how nice do you want to be to the murderers of three-thousand Americans on 9/11?

The question is about what we did to these detainees, but Cheney diverts attention to their crimes. We do have laws about the way we treat people, even terrorists. It’s kind of one of those things that’s supposed to make us better than the terrorists.

For Cheney’s final red herring, Baier asked him to respond to Senator Mark Udall’s point that the torture did not in fact lead to useful intelligence, as Cheney suggests. His answer? “I don’t know where he was on 9/11, but he wasn’t in the bunker.”

If you find yourself speechless at how painfully obvious that red herring is, and how ignorant of democracy that argument is, you’re not alone. Baier stared silently at Cheney after those comments for two full seconds—a long time for a television host—

waiting for him to make an actual point. He did not.

When we elect a politician, they are given a role to fill, not a free pass to do whatever they so choose. Cheney was Vice President, not Emperor. We have laws in place to govern what actions are allowed. So Dick Cheney, if you're reading, here's a message for you.

You ask "What are we supposed to do?" as if the only obvious answer is to torture people. You were supposed to support the same legal and effective measures we've used before. They work and they don't violate human rights. Instead, you chose torture. When you torture someone, they will say what you want them to say to make the torture stop. It creates unreliable intelligence, the opposite of what we wanted. For sidestepping our laws, values, and basic human rights, the end result isn't even of value. As the CIA itself once reported to Congress, "inhumane physical or psychological techniques are counterproductive because they do not produce intelligence and will probably result in false answers."

So no, you weren't willing to torture to get actionable intelligence. You were willing to sacrifice actionable intelligence in order to torture.