

# Legal Anomaly

By Robert V Aldrich

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FROM THE MIND OF

**RVA**

It was as though today was made to get under Jack Barker's skin. Everything he did seemed to generate some kind of negative – and annoying – response from the universe. Making coffee this morning, he burned his fingers. He took a sip and not only was the coffee burned, but he burned his tongue. When he tried to kiss his wife good-bye, she complained about his breath.

On his way to his car, he'd hoped that things would improve. But by noticing his tires were a little low, he drove with a paranoid certainty that every tiny bump in the road would spell a flat tire. Every light was red. Every jerk in front of him was determined to go five under the speed limit. No matter which way he turned, the sun seemed to find some way to get into his eyes. There was no doubt about it. The universe was in a juvenile mood and he, Jack Barker, had been chosen to be today's victim. Yay.

Arriving at work, Jack paused to collect himself. In a dark blue suit, he stood out against the black suits that passed by him going into and out from the municipal building. He looked up at the tall building that stretched up into the sky and took a moment to applaud himself that he might be one of the pillars that held up Mt. Olympus.

Through the double-glass doors he said hello to the security guards, all of whom were quite cheerful in that minimum-wage sort of way. Up until the security alarms went off. Jack wished he was surprised. He'd contemplated warning them the alarms would go off. But suddenly the smiles were gone and the guards he knew, and knew him on a first-name basis, were suddenly all 'Mister' and 'Sir' to him. Jack sighed, resigned to the fate of the day. Turned out that the eyelets of his shoes had set off the alarm. He was sent on his way without so much as an apology. It's not like he hadn't walked through that door every day for the past eleven years.

Up the elevators, Jack arrived at the Criminal Sentencing and Processing Center. A steady flow of police officer delivery personnel brought in the cases to be sentenced today. Jack nodded to them and headed inside. Through the frosted glass doors was the wood-paneled reception desk where Jack's effeminate-yet-adamantly-straight assistant was on the phone. Jack nodded to him and headed into his office. He hadn't even got around his desk when there was a knock.

"Hey," came a cheerful voice. Jack turned around to find a man, not much younger than he, leaning halfway through the door. He had

a tattoo on the back of his neck and somewhat spiky short hair, but otherwise looked the part of every suited bureaucrat in the building. "Jack Barker?"

"Yeah," Jack said, turning and shaking the man's hand. He went back to starting his day. The process began with depositing his lunch in his office mini-fridge in the corner behind his desk.

"I'm Eli Thomas, with the Evening Star." He entered with an inobtrusive smile, his hands in his pockets like a gumshoe out of a Broadway play.

Jack froze. He closed his eyes, sighed, and stood. 'Of course', he thought, seeing the trend in the day. He put his hands on his hips and asked as patiently as he could, "What do you want?"

"I just want to see it in action," Eli said, clearly not bothered by, or even sympathetic to, Jack's reaction. "I'm writing on a book on the city's internal government systems. This city is one of the first cities in the world to turn over some of its legal functions to automation. I'm writing about it." He held up his hands, quickly adding, "I'm not casting stones or making judgments or anything. I'm just... 'this is how our city makes such-and-such work' and that sort of thing. I did the same thing with garbage pick-up, with voting and the election process," he said with a gesture to emphasize the trend. "Call any of them. I'm-I'm not your enemy." He laughed disarmingly when he said that.

"I'm sorry," Jack apologized, shaking his head, trying to clear it of the cobwebs. "It's been a rough morning and we've been hounded by the press enough recently."

"Hey, I understand, I'm not..." Eli decided just to leave it at that.

"Eli, was it?" Jack asked, extending his hand again.

"Yeah," he said, shaking hands for the second time, restarting their dialogue.

"If you'll give me about twenty minutes, I need to get things set up here," Jack told him, "And then I've got to start processing today's cases. You can watch the whole thing."

"Great! Thanks, I really appreciate it," he said with a smile, shaking Jack's hand again. Jack remained standing as Eli headed out.

He sighed and looked down at his desk. The trend from this morning was clearly continuing.

It was almost eleven when Jack finally exited his office. Eli was waiting in the lobby, working on a large tablet computer. "Sorry about that," Jack said sincerely. "One five-minute call turned into four twenty-minute calls, and it just went downhill from there."

"Hey, no worries," Eli said, shadowing Jack as they headed down the hall opposite Jack's office. The halls weren't crowded but the foot traffic was consistent. "Is it a particularly busy day?"

"Not for any important reason," Jack told him as they walked down the hallways not quite wide enough for them to walk shoulder-to-shoulder, necessitating Eli to stay a step behind. "Just the usual quagmire at the end of the month." People in suits slipped passed, more than a few on the phone or conversing in quiet tones on headsets or earpieces. A few nodded Jack but no one addressed him directly. Big windows dotted the hall, with vibrant sun entering. A few paintings made to look more regal than they really were caught the sun, the frames gleaming in the morning light.

Jack and Eli came to a door that looked in no way remarkable compared to any other door in the hall. Jack, however, had to use four different keys to unlock it. When he opened the door, he revealed for Eli a small room, not much bigger than a large closet. A simple-looking computer terminal sat on a wooden desk that looked like it'd been purchased from a government auction...a decade or two ago. The room, however, was frigid. There was frost in the corners and a perpetual hum of electricity surging all around. Jack turned on the overhead light that flickered to life. The room was unfinished, with bare cement walls and a carpetless cement floor.

Eli entered the room, marveling at it. He looked at Jack. "Is that it?" he asked. Jack nodded. Eli looked back at the ancient-looking computer terminal. "That's the CTRS-902."

"That, Mr. Thomas, is the future of the judicial system," Jack said, playing up the drama a bit. "The Case Transcript Review System. Several of my colleagues and I developed the idea when we were in college. We tinkered with it afterwards, developing

increasingly more advanced systems. Eventually, when Julio Vasquez got onto the city council..."

"Councilman Vasquez is your friend?" Eli asked, a little surprised.

"Okay, let me just stop you right there," Jack said firmly but not angrily. "He did not push this because of our friendship. He recognized that this was a good idea and that it worked and pushed it that way. That we were friends wasn't that big of a deal. He didn't do this 'for me' or anything."

"No, I understand," Eli said, looking back at the simple terminal. Jack seemed a little surprised by Eli's acceptance of the explanation. "It doesn't seem that...I mean, I would have thought a computer with every recorded court case and legal precedent in history would be bigger."

"Well the mainframe's in the next room," Jack told him. "This is just the interface. We have to use some pretty large database computers in order to try the cases."

"Now this thing doesn't decide guilt or innocence, right?" Eli asked.

"No," Jack said, shaking his head. "Guilt or innocence is still decided in the courts, by a judge or jury, depending on the type of trial. This just processes the cases and determines the most appropriate sentence. It reviews the facts of the case, the transcripts and videos, the evidence, etc, and makes a determination on what is the most appropriate sentence."

"If you don't mind my asking, why bother?" Eli posed. "I mean, what good does automating the sentencing system do? Judges are needed to try the case anyway, why can't they just impose the sentence as they do in other districts, as they have for years? Centuries, even."

Jack sighed, not out of frustration but simply in preparation to share the complex argument. "Sentencing shouldn't be about vengeance; it needs to be about justice. When you sentence a criminal, you aren't trying to make things right with the individual harmed; you're trying to make things right for the community. That's why we have public justice, as opposed to private justice, which would be vengeance. Removing the sentencing phase of a court case ensures that the criminal gets a fair sentence that reflects the law and

not the individual principles of the judge or jury or even public opinion.”

“I don’t know,” Eli said, looking at the computer with an increased sense of uncertainty. “We have the human element in the courts for a reason.”

“And they need to stay there, no question,” Jack agreed with him. “We’re not trying to take the human element out of the courts. Our goal isn’t to remove the sentencing, and then next we’ll remove the jury or anything. The human element needs to decide the nature of the crime committed. Was this murder avoidable or unavoidable, was it intentional or accidental, was it premeditated or an act of passion? Those questions need to be dealt with in the trial. Once the trial is over, however, the system benefits from an unimpassioned decider, one who is informed and knowledgeable, but impartial.”

“I guess,” Eli said, still staring at the computer as though its very existence might be toxic.

“Well, here,” Jack said, pulling out the chair and sitting down at the computer. The operation system looked unremarkable, like any modern computer system. “We’ll run a few cases and you can tell me what you think of the resulting sentences.” Jack typed on the keyboard, entering a variety of commands and navigating through various menus. Standing next to him, Eli shivered in the cold. He looked around the room, appraising its lack of aesthetics or comforts.

“Case number one for today,” Jack said after a few minutes. He gestured at the details on the polished if generic user interface. “A man killed his neighbors’ dog. He ran over it with his truck. Man claimed it was an accident, that he didn’t see the dog.” He turned from the readout on the screen. “Knee-jerk reaction: what do you think?”

“A fine?” Eli suggested, shifting from one foot to the next.

“Is that what you think he’ll get or what you’d give him?” Jack asked.

Eli thought for a second. “I know that if somebody ran over my cat, I’d want him to get a lot more than a fine.”

Jack nodded, in total agreement. “Yeah, me too.” He started to turn. “I mean, I don’t have a cat but...” He dismissed it and turned to the screen. He began to type for a few minutes. The computer

beeped and a process bar appeared. "Now, what's happening right now is the computer is searching the entire legal library. And not just our laws," he explained. "It's consulting other municipalities, state and federal laws, statues that have been struck down. Anything and everything."

"Why so wide-sweeping?" Eli asked.

"Because we have to make sure we don't allow for local bias," Jack explained. "Our laws might skew specifically strict for, say, certain breeds of dog or something. This makes sure that the sentencing isn't weighted based solely off a few court cases or a prevalence of one variable like breed. It also makes sure that local laws aren't radically out of vogue with state and national trends."

"Interesting," Eli said, watching the progress bar very slowly inch along.

"We've entertained adding in international law," Jack said. "We've been tossing around ideas for a suite that would compare laws in several other countries, but which countries to use and what weight to give their legal precedent is ..." He rolled his eyes, his ability to speak crushed under the sheer prospect of figuring all that out.

Finally, the progress bar finished and a single window popped up in the very middle of the screen. "Sentence is...one week in prison, thousand-dollar fine, and a hundred hours of community service with animal rescue."

"Are you serious?!" Eli gawked. He leaned in close, looking at the result. Reading it for himself, he was amazed. "That seems...high."

Jack clicked a button and the window extended what seemed infinitely off the screen. "Here's the reasoning." He began to scroll down. "These are all the various court cases and precedents that the CTRS thought were relevant. It organizes them into rough groupings, like all of these," he said, sliding the navigation bar down along a long list of numbers that meant nothing to Eli, "are cases involving premeditated animal slaughtering."

"There's a lot," Eli observed.

"My guess, and I'd have to look at the evidence," Jack said, scratching behind his ear, "is after reviewing the case and the trial, the CTRS picked up on how much malice was at play. Punishing that

malice isn't so much about some public sense of fairness as it is making sure the offense never happens again. The week in prison and the fine are about instilling in the guy how serious an offense this is, while the community service is meant to hopefully instill in him a sense of empathy for the animals." He turned back to the computer. "Let's do another one."

Eli was audibly shivering now. "You work in here every day?"

"You get used to the cold," Jack told him, focusing on the screen and beginning the process all over again. "And I tend to only work for about twenty minutes at a time, then go work on something else." He smirked as the keys clacked, "This is hardly my entire job."

"How many cases does this office handle a day?"

"It depends," Jack said. "We typically handle them in the order of severity, but I'm taking a few of the easy lobs over the plate. Helps get my day moving. Murders and rapes get top priority and it goes down the very rough and subjective hierarchy from there."

"Couldn't you automate the input system?" Eli asked.

"Oh believe me, that's on the list too," Jack laughed. "Having a secure interface in my office is also up there. But we don't want to remove the human element entirely. My role is primarily to review the cases to make sure the sentence isn't outlandish. We need to be on the watch for outliers that are too gentle or too draconian."

"Do you get those?"

"No, but that doesn't mean we shouldn't watch for them." The sentencing window came up. "Okay. Car accident that killed two because of a drunk driver. Driver was above the legal limit, but not by a lot. The victims' car was actually speeding when the collision occurred. It was on a fairly isolated road. The sentence is...license suspension for one year with a limited license for one year afterwards, thousand hours community service, and he goes on the national DUI registry."

"I've heard of that," Eli said.

"It's basically a list that all bars and alcohol-providing establishments have access to," Jack said, sitting back in the chair. He wheeled part-way around to address Eli as he leaned back. "Anytime they run somebody's ID, his name will come up. Some bars will flat-

out refuse service to anybody on the registry. Some will limit sales, some will only serve if they verify their designated driver, stuff like that." He sat back up. "Next case," he said. "How are bad mornings always followed by productive days?" he muttered to himself, almost spitefully.

Eli had to step outside to recover from the cold. By comparison, the hallway felt like a blissful sauna. He remained only for a moment before coming back into the room. But when he came in, Jack had a troubled look as he scoured the reasoning windows. "What's up?" Eli asked.

"This doesn't make any sense," Jack said, mostly to himself. He scrolled along a window of numbers that, if each number represented a different court case, looked like it contained every court case in the history of man. Jack sat back and put his hands on his head, completely perplexed.

"What is it?" Eli asked.

"Triple-murder, appears to be premeditated," Jack told him. "These kinds of cases start to cross the border into capital punishment. In those cases, a panel of five judges convenes to review the evidence and a second sentencing is run. See, in our society, we don't engage in capital punishment as a deterrent or a punishment; we do it to remove the individual from the system. For us, for this system," he said, gesturing at CTRS' unremarkable interface, "capital punishment is only used when dealing with truly heinous crimes by criminals who look like they stand a chance of repeating AND show no signs of rehabilitation. In essence, we don't kill over rage or mental illness; we kill only over hate." He went back to the screen. "That's another matter, though."

"So what's the problem?" Eli asked. Jack, rather than answer, scrolled the window back to the top and sat back, giving Eli plenty of room to read. He leaned close studying the screen, his jaw slowly dropping. "One-week house arrest?" He looked at Jack. "That's it?!"

"This doesn't make any sense," Jack agreed. He clicked on an application and it opened a display of a telephone. "Michael," he said to his assistant through the computer screen, "I need you to get everyone in here."

"I'm sorry, sir," said his assistant, "but Donovan is in a meeting, Larry's working on a presentation, Courtney's..."

"Michael," Jack interrupted him. "Pull Donovan out of the meeting, tell Larry it can wait, I don't care. This is more important than anything they have to do." He clicked the window shut and stared at the screen. "This...is a problem."

The door to the meeting room opened up and the gathered staff of the Criminal Sentencing and Processing came in. Courtney Richards was first, in a pantsuit and a worried look. Jack Barker came in next and sat down at the head of the long table. Larry Lucas, with his bushy 70s mustache, sat down opposite Jack, while Donovan Heitmeyer elected to pace rather than sit.

"Well, we knew this was going to happen eventually," Larry said, just a little louder than was necessary.

"No we didn't," Courtney disputed. "The CTRS has tried thousands of cases, tens of thousands of cases, without a single outlier like this. We've never had a single sentence that was remotely 'off'."

"Yes we have," Donovan said, still pacing.

"No, we've had ones we didn't particularly like," Jack clarified in Courtney's support, "but every sentence that the CTRS has done has been more than satisfactory. More than adequate. Maybe not what we'd LIKE, but that's the very reason we built the system. This is the first time we've ever had anything like this."

"First time for everything," Larry said with cynical fatalism.

Jack, Donovan, and Courtney all glared at him for a second. "What precedents did it cite?" Courtney asked Jack.

Rather than answer, he half-scoffed. "Half of them. I mean, seriously, it would take years, a lifetime, to go through all those precedents and study them to understand the CTRS' reasoning. There was one case I checked that had to do with a car's repossession. I have no idea why it saw that as a precedent."

"Is there a chance the system's become, I don't know, gummed up or something?" Donovan asked, still pacing.

"No, and please sit down," Courtney asked him. "We ran about five cases before you guys got there." She spoke with a passive aggressive tone, indicating how long it taken them to arrive. "They all resulted in reasonable and logical sentences."

"And we tried running two previous cases as test cases," Larry said as he sat forward, as though finally deciding to be helpful. "The sentences were the same." He seemed to struggle for a second, as if fighting with his own vocabulary. "We've got two options: either the system is broken, in which case we need to figure out what's wrong and whether or not it can be fixed, or the system isn't broken." Jack, Courtney, and Donovan all turned and looked at him. He weathered their looks without hesitation. "This computer system has an unparalleled command of the legal and judicial system in this country. Whole libraries do not command the kind of knowledge this thing holds. And its reasoning power is practically unheard of. Simply put, it's one of the smartest things – if not THE smartest thing – on the planet. And it came back with this sentence." He looked at his three coworkers. "I mean, do we really have any right to question this sentence?"

Jack delicately explained, "Whether or not we question it isn't the issue. What is the issue is what will others, namely the public, think when it gets out." Larry was about to speak up, but Jack continued with, "and this will get out. There's no question."

"Worse," Courtney added, "is what happens if this happens again?"

Jack sat in the padded seat with its back to the inactive fireplace, pondering whether this was the worst day of his life. While it was the only conclusion he could come to, he was hesitant to commit to that final designation for fear that the universe might, for some reason, decide to take such a designation as some kind of challenge and make plans to out-do itself. Jack was rather adamant that was something he didn't want to happen.

Sitting in the large living room of the mansion, Jack, Courtney, Larry, and Donovan were all sharing the silence. Courtney was facing the window, staring out at the night. Jack could practically see the test cases running in her mind. Likewise, Larry was looking over the

printed-out precedents from a few of the cases. Having looked at them so much, he didn't even need the briefs. He knew the case and all the relevant data purely from the designation number. Donovan, like Jack, was focused on more basic problems than the cases or the program fundamentals. Jack wasn't sure if Donovan was pondering a universe-wide conspiracy against him, but if we weren't, Jack couldn't be certain that he wouldn't think his priorities were out of sync.

The doors to the mansion opened and a Hispanic man in a suit that screamed 'cowboy tycoon' walked in. "Julio," Jack said, practically vaulting from his chair. The two friends shook hands, immediately falling into a fraternal hug. Hellos, good to see yous, and more than a few thank god your heres were passed around before they all got to the meat of the matter.

"We are seriously in a bind," Larry told Julio.

"I read," the city councilman said, making no light of the situation. He joined their ranks and was a team member instantly. "I suppose it goes without saying that you checked and double-checked everything."

"Ran previous cases, ran additional cases, re-ran the same case," Courtney told him. "The system is functioning properly for every other case. For some reason, this case..." She couldn't add anything more.

Julio nodded and paced through the memorabilia-strewn room. It looked like a smoking room out of some 19<sup>th</sup> Century painting. He walked over to the mantle of the fireplace and stood for a moment. "Well, the council's been made aware of the situation and they've suspended all sentencing until we get to the bottom of this. They've also insisted on a media blackout on this topic until we know even a little bit more. That will buy us maybe a day."

"Julio, this isn't something we can fix in a day," Jack told him. "The sheer number of precedents that the CTRS cited as relevant would making doing a by-hand comparison pretty much impossible."

"Nothing this system does should be impossible," Julio said.

Jack, frustrated, backpedaled. "Okay, not impossible. But you'd need a team of legal experts working for...I don't know, months, maybe years, checking each one of these cases, taking into account the relevant data, and compiling it to see if they came to a similar

conclusion. Okay, it's not impossible, but it's beyond impractical. I mean, are we going to suspend sentencing until some mythical team of legal experts did that? Are we going to continue to hold this man in a waiting cell until we checked the sentence? What if it's the right sentence?"

"What if it's the right sentence?" Julio repeated rhetorically with a chuckle. "Jack...one-week house arrest for triple-murder?"

"Julio, we can dance around this all day," Larry interjected between the two. "But we have to face the facts that the CTRS is working exactly like it's supposed, exactly like it has. For whatever reason, it's giving us a bogus sentence for this one case."

"Is there something about the case?" Julio asked.

"No, it's not too different from other murder trials," Donovan said. "A guy was at a movie theater, a fight broke out, and three people ended up dead. There's a lot of touchy issues about self-defense and premeditation. A racial slur was said. He didn't throw the first punch but he was carrying an illegal weapon, that sort of thing. But similar cases would still end up with him doing some serious jail time, if not facing a capital punishment re-evaluation."

Julio sighed as he unbuttoned his jacket. He pushed it back, his hands on his hips. With his head bent down, Jack was again reminded of how much he resembled Superman if he had a dark complexion. And a bit of a spare tire. "If we take the program off-line," he cautioned them, "if it gets out that the system's flawed, then every criminal it has sentenced potentially gets an automatic get-out-of-jail-free card."

"Hold up," Larry said, as usual speaking just a bit too aggressively. "The system is involved with sentencing, not trying. I mean, yeah they'll get a sentence review, but it's not like they'll be able to use this as evidence to overturn the conviction."

"No, they might," Courtney recognized. "The argument could be made that the jury convicted them with the assumption that the resulting sentence would be just. And if it could be argued it wasn't, then they could contend the entire court case would need to be revisited."

"And we're talking about years' worth of cases, from jay walking to murder, and everything in between," Julio said. "Even if every

single case AND sentence were upheld, the cost would be astronomical.”

“Guys, I think we may have a bigger problem,” Jack stepped in. His calm voice silenced them together. “We’re assuming that something’s wrong with this sentence. And maybe we shouldn’t. Like I said, what if it’s the right sentence?”

“It can’t be,” Julio insisted.

“Julio, it can be,” Jack said unabashedly. “The system has worked without deviation for years. The system continues to work, without deviation. This one case is our only example of the slightest example of anything happening out of the ordinary. Now what if – however far-fetched – this isn’t some mistake on the part of the program? What if this is exactly what the program is supposed to do?”

The others all turned to Jack, continued to listen. “We designed this program to remove the passionate human element from the equation, to judge the facts and the case and sentence accordingly. What if this is the correct result? What if this program is doing exactly what we wanted it to? Think about it,” he practically implored. “The only reason we have any indication something’s wrong, the only reason we’re even having this conversation, is because we look at this crime and we look at this sentence and feel, just deep down in our guts, that it’s not fair. But that’s the very reason we made the CTRS, to keep those kind of gut senses, that sense of righteous indignation or moral imperative or whatever, out of the process. We’re here, because we’re disagreeing with the program that has, up until this one case, and continued after this one case, to deliver sentences we could agree with. But now that it delivers this one sentence, we insist something must be broken.”

“But how could it possibly arrive at this sentence?” Larry asked.

“I don’t know,” Jack didn’t hesitate to admit. “But no lawyer or judge has the legal knowledge that CTRS does. It’s got more legal information than an entire library could hold. And it’s got enough processing power that it not only can but does review every single court case in this country’s history for every single sentence it hands out. Every case for every sentence. No lawyer, no judge, could do that. So I think the question becomes not ‘what’s wrong with it’ but ‘why are we questioning something that clearly knows more than any of us do’. It knows, we don’t,” he laid out simply. “And because we don’t agree with what it’s decided in this one case, we’re prepared to

reprogram it, scrap it, whatever." He stopped. The others, too, paused to consider what he'd said. "I really think we need to consider the likelihood that that this isn't the wrong sentence. It's the right sentence that up until now would never have been given out."

Julio, with a sigh, nodded. He looked at Jack. "You know this is going to get ugly." Jack nodded. "The public backlash is going to be fierce."

Jack nodded, then smirked. "Does justice always have to agree with public opinion?"

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