SPECIAL SECTION

What Happens Post-*Chevron*?

Many dire predictions and a lot of heated rhetoric have followed the *Loper Bright* decision, but what are its likely consequences?

Introduction

BY PETER VAN DOREN

In June, the Supreme Court overturned *Chevron v. Natural Resources Defense Council*, a 1984 decision that instructed courts to defer to agencies' interpretations of statutes when Congress's statutory instructions to agencies were adjudged to be ambiguous. The 2024 *Loper Bright Enterprises v. Raimondo* decision, written by Chief Justice John Roberts, argues that "statutes, no matter how impenetrable, do—in fact, must—have a single, best meaning." Thus, it "makes no sense to speak of a 'permissible' interpretation that is not the one the court, after applying all relevant interpretive tools, concludes is best." In effect, statutes are not ambiguous; they always say *something*, and courts rather than agencies decide what statutes say.

Justice Elena Kagan, in her dissent, argued that the future of federal regulation is imperiled by the decision. According to her, *Chevron*

> has become part of the warp and woof of modern government, supporting regulatory efforts of all kinds—to name a few, keeping air and water clean, food and drugs safe, and financial markets honest.... The majority's decision today will cause a massive shock to the legal system, "casting doubt on many settled constructions" of statutes and threatening the interests of many parties who have relied on them for years.

For the *Loper Bright* majority, the concern was procedural: Courts, rather than agencies, are the arbiters of statutory language and its instructions to the agencies. The dissent's concerns were substantive: Modern regulation depends on agency discretion that the Court majority has now eliminated.

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Are Kagan and other *Loper Bright* critics right, and the federal government now faces serious obstacles to implementing regulations desired by lawmakers and the public? Or are *Chevron* critics correct that the original decision resulted in regulators implementing regulations that lawmakers did not intend and the public does not want? The authors of the following essays offer their perspectives on what *Chevron*'s overturn means. *R*

The Game Continues

BY PETER VAN DOREN

Two chief characteristics of modern environmental and safety regulation are (1) lawmakers set loud, ambitious (unrealistic) goals in statute, and then (2) if the resulting regulations spark constituent backlash, government responds with either administrative enforcement indifference or explicit congressional enforcement restrictions, though lawmakers rarely rewrite the statutory language. The ambitious goals allow Congress to take credit for *doing something*, while enforcement indifference and appropriation restrictions let Congress and the president blame the agencies for costly regulations and take credit for *reining them in*.

The Supreme Court's *Loper Bright* decision will change the *processes* in this game: The courts will now have final say on what statutes tell "out of control" regulators to do. But the regulators were never out of control; Congress delegated to them the authority to draft regulation, and then used explicit appropriation restrictions and

encouraged enforcement indifference to limit agencies implementing the regulation. *Chevron*'s repeal alters neither the incentives nor the substantive results in this game. The larger context from which *Chevron* originated has not changed. The legal claims of the Court are largely irrelevant for the substance of environmental and safety policy.

Unrealistic goals and enforcement indifference / From its inception, a persistent characteristic of US environmental policy has been unrealistic goals and enforcement indifference. Charles Jones used the phrase "policy beyond capability" to describe such goals in his 1975 book *Clean Air: Policies and Politics of Pollution Control*. Alan Altshuler, in his 1979 book *The Urban Transportation System* with James Womack and John Pucher, elaborated on this notion, noting, "There was a widespread view in 1970 that the manufacturers could do virtually anything [to mitigate pollution] if simply told they had to."

For example, the 1970 Clean Air Act required ambient air quality standards be achieved by 1975. Those ambitious goals have been followed by explicit and implicit enforcement indifference. The deadlines were extended many times (Revesz 2022); by 2005, of the 338 goals set out in the Clean Air Act Amendments of 1990, only 37 had been met by the deadline specified in the statute (GAO 2005). As of March 2022, 15 counties with a combined population of nearly 21 million were in nonattainment of the 2012 annual standard for fine particulate matter ($PM_{2.5}$). For pollutants other than $PM_{2.5}$, 37 states, districts, and territories have nonattainment counties, with a total population of more than 131 million. And as of 2016, over half of US river and stream miles violated water quality standards (Keiser and Shapiro 2018). Revesz described this pattern as "Institutionalized Nonattainment."

Enforcement retreat / If enforcement indifference ends and agencies attempt to implement policies that would annoy constituents, Congress often enacts legislative language concerning the monies appropriated for the enforcement agencies, restricting their ability to implement disfavored regulations. As part of its rulemaking under the 1970 Clean Air Act, the EPA proposed automobile parking surcharges and parking space reductions. Unsurprisingly, public backlash ensued. Congress responded in 1974 with a ban on the use of any EPA funds to regulate parking. The public may want a clean environment, but even today they do not want government restrictions on free parking for the cars they love, even in liberal jurisdictions like Washington DC (Brannon and Bowling 2024).

Repealing or rewriting recent statutes is difficult if not impossible; lawmakers don't want to admit error in their ambitious legislation or upset collegial relationships and dealmaking that allow them to pursue their individual agendas. But they also want to avoid constituent backlash, so Congress responds to unpopular regulations with restrictive appropriation riders. Reining in "out-of-control" agencies allows members to raise money from and claim credit for helping annoyed voters and special interests. In public choice terms, amending environmental statutes to be more realistic would require members' cooperation: a public good. Rescuing constituents from agency abuse through ombudsman activity is a private good that is easier for members to provide and more credible with voters. So, the political equilibrium is an unrealistic statute with lawmakers rescuing their constituents from bureaucrats rather than explicitly better statutory construction.

Another example of enforcement retreat is auto safety regulation. In 1966 Congress unanimously enacted the National Traffic and Motor Vehicle Safety Act after the 1965 publication of Ralph Nader's book *Unsafe at Any Speed*. The premise of both the book and the law was that the market for vehicle safety failed and government regulation was necessary to force manufacturers to provide technical modifications to cars that reduce the injury and fatality rate from accidents.

In its early years, the federal auto safety agency (what is now the National Highway Traffic Safety Administration, NHTSA) issued aggressive regulations. But the statute required that the agency's regulations be "reasonable," "practicable," and "objective." Citing those requirements, car manufacturers sued to block the regulations, and between 1968 and 1978 they won six of the 10 cases litigated over the rules.

Once NHTSA was so aggressive that Congress did amend the auto safety statute. This out-of-control behavior by an agency is so unusual that it deserves mention. The 1974 model year automobiles were required to have electronics that prevented the automobiles from being started unless the seatbelts were in use. Motorists revolted, and in October 1974 Congress enacted legislation prohibiting the use of that technology or any seat belt warning buzzer that sounded for more than eight seconds.

The agency responded to those setbacks and the subsequent regulation-skeptical Reagan administration by passing no new rules *at all* and then by issuing rules that mandated safety devices that the industry was adopting anyway. In a 2015 report on lives saved by NHTSA rules issued after the early 2000s, the agency concluded that four of those eight major rules had effective dates that were after the median new car already was equipped with the mandated device.

In addition, NHTSA switched from safety rules to issuing recalls for vehicles it deemed to have safety defects. The agency had realized that, though the evidence required for the issuance of defensible safety rules is high, the evidence required for recalls is light. And car makers do not fight recalls because such fights hurt brand image and market share.

Recalls do little to improve aggregate auto safety because most accidents are the result of driver error rather than vehicle defects. A 2008 US Department of Transportation report to Congress found that vehicle defects or failure accounted for only 2.4 percent of accidents, while driver error accounted for over 95 percent. But Congress and the public seem to want more, not less, aggressive recall activity. NHTSA is happy to oblige.

Congressional requirement / *Chevron* and its repeal emphasize the importance of agencies and agency discretion. But many regu-

latory policies characterized by large costs and low benefits are imposed by Congress itself rather than regulatory agencies using their discretion. Half of the economically significant regulations (costs exceeding $100 million) proposed from 2008 through 2013 were required by Congress. For example, in 2008 Congress enacted legislation requiring NHTSA to issue a rule by 2011 to enhance rear view visibility for drivers. The agency concluded that driver error is the major determinant of the effectiveness of backup assist technologies such as cameras. In addition, NHTSA concluded that the cost per life saved for the cameras ranged from about 1.5 to three times the $6.1 million value of a statistical life used by the Department of Transportation to evaluate the cost effectiveness of its regulations. Given those poor cost–benefit results, NHTSA delayed implementing the rule until the possibility of intervention by the courts forced its hand.

Congress required positive train control in October 2008 after a commuter train crash in California the previous month killed 25 people. The Federal Railroad Administration conducted cost–benefit analyses of positive train control in 1994 and 2004. The estimated 20-year costs were $10–$13 billion while the safety benefits from lives saved and damages prevented were only $440–$670 million. The railroads balked at the cost and Congress punted, extending the compliance deadline from the end of 2015 to the end of 2018 and then the end of 2020.

Conclusion / Congressional goals for environmental and safety policy are unrealistic or impossible. The result is endless litigation and lack of enforcement. This is a bad equilibrium from a policy perspective, but it is *an* equilibrium, and from a congressional point of view an understandable one.

Realistic environmental and safety policy would be a solution. But it would be a pure public good for which members credibly can't claim credit. Thus, the incentives for members of Congress to supply good statutes are few. Instead, the equilibrium is unrealistic policy accompanied by a private good: congressional intervention to rescue constituents from the decisions of unelected bureaucrats. In this game, neither *Chevron* nor its repeal is that important. R

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Whither Congress?

BY KEITH B. BELTON

The US Supreme Court has been taking aim at the administrative state for some time. With its opinion in *Loper Bright*, the Court has eliminated *Chevron* deference, meaning courts will no longer defer to an agency's reasonable interpretation of an ambiguous statute.

The result will shift power from the executive branch to the judicial branch. But, though substantial, the decision represents less of a sea change than a shift in the prevailing wind, one that can and will be navigated by regulatory agencies. The ramifications for the legislative branch are less clear but arguably at least as important.

Judiciary and executive / The ruling allows judges to decide if an agency's interpretation is the best reading of the statute. Some legal observers suggest this will create chaos as each of the 10 circuits will inevitably make some inconsistent decisions—at least in the short term—creating uncertainty unwelcome by those who must comply with regulatory requirements. Compounding the problem is that judges are not always in a good position to address technically complex regulatory issues, a rationale that harkens to the need for expertise that regulatory agencies possess.

Aside from creating uncertainty, *Loper Bright* will likely increase the number of judicial challenges as well as judicial invalidation of rules. In the former case, the Supreme Court's ruling this term in *Corner Post* may allow revisitation of old cases upheld on deference grounds, despite the majority's opinion in *Loper Bright* that its decision is prospective and not retrospective. In the case of judicial invalidation of rules, a 2017 study found that agencies prevailed 75 percent of the time under *Chevron*, and less so under other standards of deference: so-called *Skidmore* deference (56 percent), in which deference is based on the agency's ability to support its position, or *de novo* review (39 percent), which grants no deference to agency decision making.

It is worth noting that, at least in recent years, higher courts have employed *Chevron* deference less and less in making their decisions. Former OIRA administrator Cass Sunstein foresees "a nontrivial increase in judicial invalidations of regulations to protect health, safety, and the environment . . . [and] a significant increase in ideological divisions in the lower courts" (Sunstein 2024).

As for the executive branch, we can expect agencies to more clearly

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explain their reasoning in anticipation of future review by the courts, and some administrative law experts observe that this has already been occurring in anticipation of the invalidation of *Chevron*. We can also expect fewer 180-degree turns in defending a rule after a partisan shift in the White House because agencies must now stick with the best interpretation of a statute. A particular challenge will arise when agencies might employ an old, ambiguous statute to address a modern problem (such as the regulation of artificial intelligence or space); agencies will be less likely to break new ground.

People have long criticized the increasing delegation of legislative authority to agencies. Rep. Virginia Foxx (R–NC), chair of the House Education and Workforce Committee, observed:

> Congress creates, enables, and abides by the administrative state when it passes statutory language without clear meaning. Congress' illegal delegation of its Article I authority ... to unaccountable bureaucrats ... has been a fault of this body over decades and the fault of both parties.

Congress / In response to *Loper Bright*, Congress could amend the Administrative Procedure Act and clarify the kind of review courts should apply. Two very different proposals have already been offered, reflecting the ideological divisions that often arise on regulatory matters. One, sponsored by several conservative Republicans and called the Separation of Powers Restoration Act, would enshrine a *de novo* standard of review. Another, sponsored by several progressive Democrats and called the Stop Corporate Capture Act, would codify *Chevron* deference into law. The latter may prove to be unconstitutional as Justice Clarence Thomas suggested in his *Loper Bright* concurrence.

Lacking a "clean" fix by amending the APA, Congress will likely attempt to draft new statutes more clearly, but this may be difficult for issues that are still developing or where political consensus is lacking. Congress may also need more expertise to grapple with the complexities of particular subjects; punting such issues to agencies may no longer be the default option it often is today. Finally, Congress can be expected to draft more specific delegation of interpretive authority to agencies when writing new statutes.

Less clear is what Congress can do about delegations contained in old statutes, which provide the basis for nearly all the 3,000-plus regulations promulgated every year. Lawmakers most certainly will not slog through hundreds of statutes and amend them one by one. The issue is one of oversight: What is the best way for Congress to ensure an agency is acting within its intended delegated authority?

H.R. 8204, cosponsored by Reps. Don Davis (D–NC), Tim Burchett (R–TN), and Guy Reschenthaler (R–PA), would require an agency to notify Congress when beginning a new rulemaking process and explain the necessity of the rule: Is it required by statute, is it necessary to interpret a statute, or has it been made necessary by a compelling public need? (See Belton 2024.) An agency would also have to clarify that it considered alternatives to regulation and discern if existing law contributes to the underlying problem the rule is intended to address. Each notice would be sent to the Government Accountability Office, which would include it in a publicly searchable database and report to Congress on agency compliance with the law.

By obtaining this information long before the promulgation of a proposed rule, Congress would have an opportunity to use its oversight powers. The information would be part of the administrative record that a court would see in its review of whether an agency acted within the authority Congress delegated to it and make regulators more accountable to the legislative branch. That would be a good thing, no matter the standard of deference. *R*

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Short-Term vs. Long-Term Effects

BY STUART SHAPIRO

There has been no shortage of criticisms of the *Loper Bright* decision. Justice Elena Kagan in her dissent called it a "major shock to the legal system." Kate Shaw of the University of Pennsylvania Law School says it "has the potential to fundamentally transform major aspects of the health, safety, and well-being of most Americans." But other commentators say the decision will have very limited real-world effects on policy. Peter Van Doren argues in this Special Section that the ruling does not change the fundamental equilibrium of Congress passing ambiguous statutes that, for one reason or another, do not result in concomitant regulation. Kristen Hickman and Nicholas Bednar argued in a 2017 law review article that deference by courts to agency expertise is inevitable regardless of the doctrinal framework.

I believe there is some merit in each of these arguments. My best guess is that, in the short run, *Loper Bright*'s effect is likely to be substantial because of the uncertainty it creates for agency officials and judges. In the longer run, however, the equilibrium noted by Van Doren and Hickman and Bednar is likely to be restored.

Risk aversion / To understand *Loper Bright*'s likely short-run implications, it is important to understand the structure of rulemaking in

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federal agencies. While agency experts generally craft the substance of new regulations, most agencies require the agreement of their general counsel's offices before moving forward with the regulation.

Agency experts tend to be ambitious and committed to the mission of the agency: Few people choose to spend their career at the Environmental Protection Agency because they oppose environmental protection. As the bureaucratic literature often observes (Downs 1965; Wilson 2019), mission is very important in the motivational structure of public servants.

However, general counsel's offices are typically governed by professional norms as much as by policy preferences. And like most attorneys, those that work for federal regulatory agencies are risk averse, generally preferring to err on the side of crafting regulations that are likely to survive judicial review, even if that means sacrificing the goals of their more zealous colleagues in program offices. This risk aversion, combined with the deference these offices usually are given, means that, despite the stereotype of overreaching agencies, agency regulations are often more conservative than preferred by many at the agency.

This is where *Loper Bright* is likely to have its biggest effect. Even in a world of *Chevron* deference, agency attorneys were cautious about which regulations they allowed to be put forward. *Loper Bright*, at least initially, will increase the uncertainty over how courts will adjudicate regulatory cases. The increased uncertainty will lead to longer review times for regulations within agencies, more intra-agency disputes over regulatory decisions, and—consequently—fewer regulations making it through the gauntlet of the internal regulatory process that is largely invisible to the public.

Then comes review by the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget. (I worked at OIRA from 1998 to 2003.) President Bill Clinton's Executive Order 12866 requires agencies to submit significant regulations to OIRA for review both at the proposed-rule and final-rule stage. OIRA reviews the regulations both for analytical soundness and compliance with the president's preferences (Shapiro 2005), and it may also raise issues regarding the legal soundness of the agency's regulatory initiative. With the demise of *Chevron*, these issues are likely to play a more prominent role in OIRA review, with its lawyers not wanting to trigger a legal challenge. This caution will dampen regulatory output further. One or two adverse court decisions that cite *Loper Bright* will likely strengthen risk-averse voices within the bureaucracy.

Thus, in the short term, I expect that agency regulatory output will slow because of *Loper Bright*. Agencies will feel the need to better understand the new legal climate in which they are operating, and they will be cautious in issuing new regulations.

One qualifier to this is the possibility of a second Donald Trump administration that does not react according to the traditional incentives facing the executive branch. Candidate Trump has stated his intention to remove some career bureaucrats and replace them with political appointees interested in advancing his agenda rather than establishing long careers in civil service (Firey 2024). In their zeal, agencies with overeager political appointees may not hesitate to issue new deregulatory initiatives. However, if these efforts are done quickly and carelessly, they will likely run aground in the courts (Coglianese et al. 2021) and *Loper Bright* may be cited as the legal justification for their failure.

Long term/ In the long run, however, I suspect our current equilibrium is likely to be restored. Eventually, the courts will begin upholding regulatory initiatives under the new regime. Agencies will regain confidence in their ability to regulate (or deregulate). It may just take a while to get there. *R*

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What's Next after *Loper Bright*?

BY THOMAS J. KNIESNER AND W. KIP VISCUSI

A popular narrative with respect to the 1984 *Chevron* decision is that it provided regulatory agencies with the leeway to exploit the ambiguities in their statutes. After *Chevron*, the courts had to defer to agency judgments in situations in which the authorizing statute is ambiguous, which fostered a wave of greater regulation. The principal task for those advocating protective, yet sensible, regulations was to curb the degree of discretion provided by the *Chevron* deference ruling. The 2024 *Loper Bright* decision overturned *Chevron* and has achieved a curb on regulatory discretion. Presumably, a future with more responsible regulation should be brighter.

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Here we take a somewhat different view. The regulatory problems that emerged both before and after the *Chevron* decision are much more fundamental and can be traced back to the authorizing statutes, not just the behavior of the administrative state. Understanding the current regulatory environment and the challenges posed by both *Chevron* and *Loper Bright* requires an understanding of how we got to the current situation and which social institutions could be more engaged in promoting efficient regulations going forward.

***Before* Chevron** / The Nixon administration launched a wave of regulatory initiatives. Chief among them were the establishment of the Environmental Protection Agency (EPA) in 1970, the National Highway Traffic Safety Administration (NHTSA) in 1970, and the Occupational Safety and Health Administration (OSHA) after passage of the Occupational Safety and Health Act of 1970. Congress also established many other agencies, such as the Consumer Product Safety Commission in 1972. The congressional mindset underlying the development of the regulatory statutes was that it was a straightforward and not particularly costly task for agencies to require that the environment be made clean and that jobs be made safe.

The statutes for health, safety, and the environment directed agencies to address those concerns in an uncompromising manner. For example, the Clean Air Act prohibited the EPA from considering costs when setting ambient air quality standards. Legal challenges to OSHA to promote the balancing of benefits and costs in setting regulatory standards succeeded in obtaining a requirement that the risks addressed by OSHA standards had to be significant, but the legal challenges to OSHA's authority did not succeed in incorporating benefit–cost balancing in agency decisions.

The emerging uncompromising strategy for regulation proved to be much more costly than expected. To rein in the regulatory compliance costs, the Ford administration established the Council on Wage and Price Stability to oversee new regulations and to review the inflation impact statements that agencies were required to provide for so-called major regulations. The Carter administration continued the effort to raise regulatory cost consciousness, and it required that agencies assess benefits and costs and to adopt regulations that were more cost-effective. None of the regulatory policy efforts required benefit–cost balancing. Council on Wage and Price Stability regulatory oversight was limited to public filings on regulatory proposals and lobbying by the White House to try to rein in regulatory excesses.

The environment of pursuing cost-effective policy options included the EPA developing its so-called "bubble policy," which was finalized during the Reagan administration. Rather than assuming that each emissions point was a stationary source that should be subject to a specified emissions limit, the EPA sought to interpret what was meant by a stationary source more flexibly. By focusing on the total emissions from a plant as if there were an artificial bubble around the plant, it would be possible for firms to select which emissions source could be reduced most cost effectively. Firms could target the pollution reductions that could be achieved at the lowest cost per unit of pollution reduction. Companies would reduce their overall pollution, but in a more cost-effective manner. Economists touted the bubble policy effort as efficiency-enhancing regulatory reform.

Chevron / The Natural Resources Defense Council challenged the bubble policy flexibility, insisting that every pollution source must be treated as a stationary source that is subject to a stringent emissions cap. The Supreme Court ruling on behalf of the EPA in *Chevron* concluded that the EPA did have the authority to proceed in its interpretation of what constituted a stationary source. More generally, agencies such as the EPA were able to make such regulation implementation decisions when the statutory guidance is ambiguous. Although most of the impetus for challenges to *Chevron* deference stem from a concern with excessive regulation that resulted from the decision, the policy context in which *Chevron* emerged involved cost reductions that were efficiency-enhancing. The genesis of the policy was in the spirit of efficient regulatory reform.

***End of* Chevron** / The *Loper Bright* decision overturned the *Chevron* doctrine but did not solve the underlying problems caused by the structure of agencies' legislative mandates. The statutory guidance continues to reflect the same lack of concern with the benefit–cost merits of policies. Beginning with the Reagan administration and continuing to the current time, the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) has taken on responsibility for regulatory oversight. As a consequence of the restructuring, there has also been a bolstering of the requirements that agencies must meet. For major regulations, agencies must also present estimates of the benefits and costs. Agencies also must justify their policies based on a benefit–cost test except when doing so is not consistent with the agency's legislative mandate. Unfortunately, that exemption continues to be a major roadblock for requiring that agencies such as the EPA and OSHA enact policies that pass a meaningful benefit–cost test.

What* Loper Bright *could give birth to / The regulatory consequence of the overturning of the *Chevron* deference principle is prospective rather than retrospective. A desirable feature of the *Loper Bright* decision is that it overturned *Chevron* deference for future regulations but did not prompt a reassessment of existing regulations. Revisiting regulations already on the books for up to four decades would create enormous inefficiencies and would not be in the interest of companies that have already invested in compliance costs. It is also infeasible to determine all regulations that emerged because of the *Chevron* deference principle because not all regulations where agencies exploited *Chevron* deference led

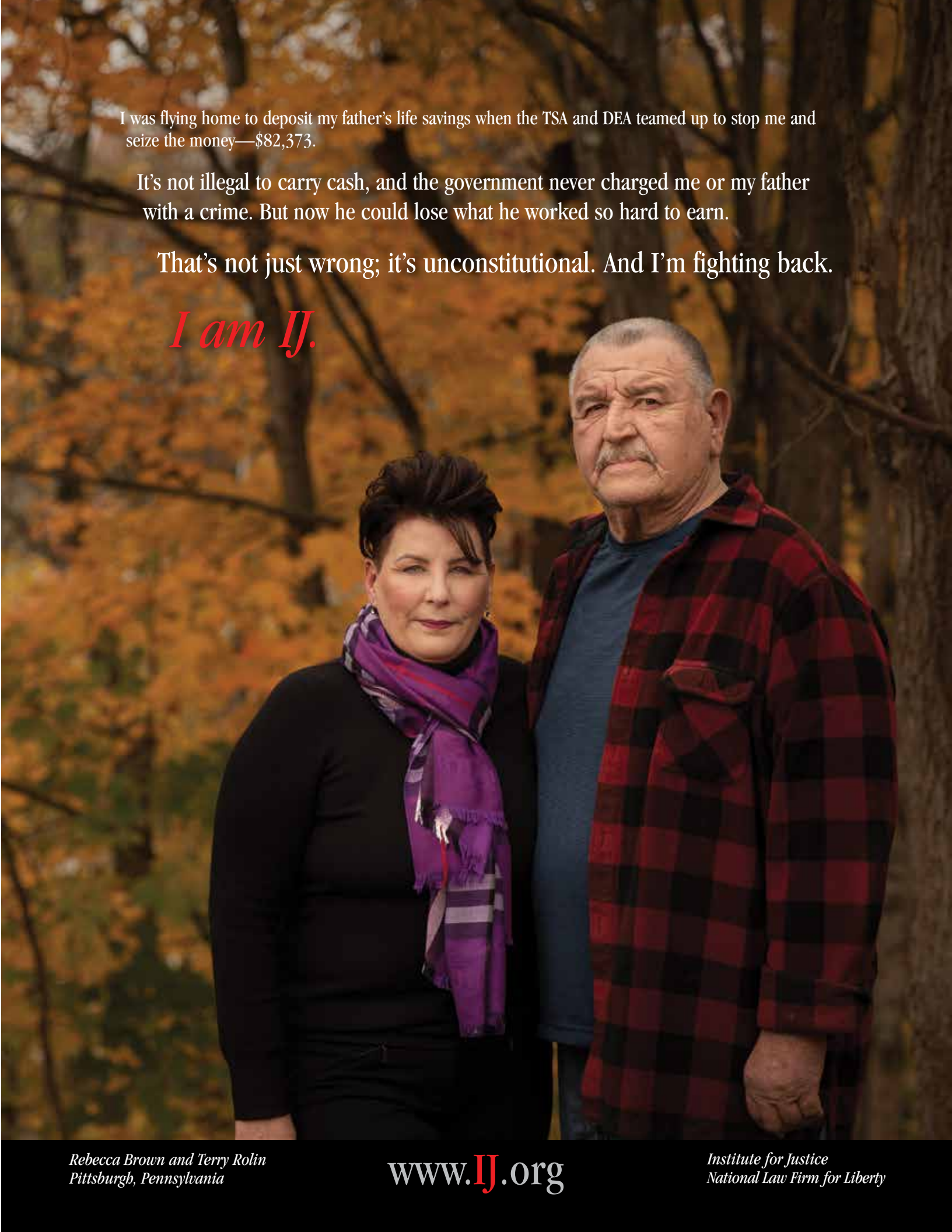
to legal challenges to the regulation.

To be concrete, Rep. Lauren Boebert (R–CO) did not understand the *Loper Bright* decision or the wisdom of the Court's exemption for existing regulations. In a House Oversight Committee hearing on July 10, 2024, she insisted that EPA Administrator Michael Regan was required to revisit all regulations that had relied on *Chevron* deference. The Supreme Court decision actually reached the opposite, more efficiency-enhancing, conclusion, which is that existing regulations should not be subject to a reassessment.

In closing, it is important to emphasize that we are not in the business of predicting what will shake out. but rather what could happen that is a positive regulatory outcome. Less confusion and more logical and robust regulatory outcomes where Congress is running regulatory formation processes would be desirable. Moreover, it is possible that the new set-up where Congress starts the process and fleshes things out could lead to fewer legal disputes and enhanced evidence-based regulatory policy both ex ante and ex post. Is it not enough to have a super mandate that all policies must be permitted to do and base policies on a BCA analysis (even the so-called independent agencies) and let OIRA enforce it? Agencies can be permitted to override specific congressional mandates with cost-effective alternatives, which institutionalize the good part of *Chevron* but limits it to promoting efficient regulation.

Elevating the role of benefit–cost tests coupled with increasing agency flexibility to pursue more efficient policy options will provide a comprehensive mechanism for curbing perceived regulatory excesses and enhancing the beneficial impacts of regulation. In addition to expanding the role of ex ante evaluations of prospective regulations, there could be enhanced ex post regulatory assessments. Efforts to identify underperforming regulatory policies could be more successful if they focused on contexts where companies have not already incurred the compliance costs or where there are scheduled increases in future compliance costs.

Much has changed in the more than half century since the establishment of the health, safety, and environmental agencies. There continue to be legitimate market failures that warrant regulatory intervention. The initial *Chevron* decision was notable in that it identified the shortcomings of existing statutory guidance. We have also learned that regulatory policies come at a substantial cost, which sometimes does not receive sufficient consideration in the development of regulatory policies. Agencies require stronger and more specific guidance than they currently receive to ensure that regulatory policies are in society's best interests. The *Loper Bright* decision should provide the impetus for rethinking the structure of the administrative state. Rather than treating *Loper Bright* as the culmination of regulatory reform, our proposal for moving forward is to restructure the statutory guidance provided to regulatory agencies. *R*


I was flying home to deposit my father's life savings when the TSA and DEA teamed up to stop me and seize the money—$82,373.
It's not illegal to carry cash, and the government never charged me or my father with a crime. But now he could lose what he worked so hard to earn.
That's not just wrong; it's unconstitutional. And I'm fighting back.
I am IJ.
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