
Imperial Crisis Response and the Antiochene Magic and Treason Trials of 372 CE

ABSTRACT The writings of Ammianus Marcellinus, Libanius, and John Chrysostom have enshrined the Antiochene treason and magic investigations conducted under Emperor Valens in 372 CE as a testament to the ruler's excessive paranoia and poor relationship with the eastern metropolis. By reexamining these three authors' allegations of judicial corruption and abusive policing during the trials, this article contends that Valens's response to the crisis was leveraged with far more legality, moderation, and success than often discussed. The rigorous tactics implemented during the trials demonstrate Valens and his administration's intent to counter potential sedition among Antioch's citizenry with the full brunt of Roman law and military action. Comparisons with legal precedents reveal, however, that Valens's administration balanced these stern deterrents with deference to the law and attempted to assuage Antiochene interests throughout the investigations. Antiochene lobbying efforts were also more impactful in mitigating the imperial response, as demonstrated by Chrysostom's account of a public protest that successfully petitioned Valens to pardon one of the accused. This article concludes that this pardon and Valens's application of moderated or commuted sentences throughout the trials indicate his efforts to maintain a constructive imperial-urban relationship with the Antiochene populace. This conclusion not only forces a reconsideration of Valens's relationship with his *de facto* imperial capital throughout the trials but also indicates the dangers of relying too heavily on literary interpretations of Valens's reign. **KEYWORDS** treason, magic, Valens, Antioch, Roman policing, public protest, Ammianus Marcellinus, Libanius, John Chrysostom

INTRODUCTION

The magic and *maiestas* (treason) trials carried out under Valens in 371–72 CE are often remembered for the trauma they inflicted on residents of the

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eastern metropolis of Antioch. In late winter 371, rumors of a vast conspiracy embedded within the eastern administration would test Emperor Valens's administration and strain his relationship with Antioch.¹ As investigations unmasked an ever-growing list of co-conspirators and revealed Theodorus, the second-in-rank of the *notarii*, as the impending candidate for the throne, the brunt of imperial scrutiny fell on Antioch's citizens, leading Valens and his administration to identify potential sympathizers and restrict the use of divination and other "nefarious magical practices" (*maleficium*).² In the ensuing investigations, dozens of individuals across all social ranks were imprisoned, tortured, and violently executed—often through beheading, strangulation, or burning at the stake. These brutal and bloody punishments are recorded with shock and horror in contemporary accounts of the trials.³

The most extensive eyewitness account of the Antiochene trials can be found in the writings of Ammianus Marcellinus, who frames the investigations as a consummate miscarriage of justice unleashed upon Antioch's largely innocent and unsuspecting populace. According to Ammianus, Valens and his administrators bring Antioch's judicial and carceral system to the brink of collapse through their greed, cruelty, and paranoia. Allowing all semblance of judicial precedent and legal protections to lapse, they send guilty

among others, for their robust discussion of a much earlier version of this piece. Any infelicities or errors remain my own.

1. On the dating of the trials and Valens's residence in the city in the 370s, see Noel Lenski, "The Chronology of Valens's Dealings with Persia and Armenia, 364–378 CE," in *Ammianus after Julian: The Reign of Valentinian and Valens in Books 26–31 of the Res gestae*, ed. Jan den Boeft, Jan Willem Drijvers, Hans C. Teitler, and Daniël den Hengst (Leiden: Brill, 2007), 95–127; Sebastian Schmidt-Hofner, "Die Regesten der Kaiser Valentinian und Valens in den Jahren 364 bis 375 n. Chr.," *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte: Romanistische Abteilung* 125 (2008): 498–600; Gavin Kelly, "Ammianus, Valens, and Antioch," in *Antioch II: The Many Faces of Antioch: Intellectual Exchange and Religious Diversity, CE 350–450*, ed. Silke-Petra Bergjan and Susanna Elm (Tübingen: Mohr Siebeck, 2018), 137–62 at 146–52; Gavin Kelly, "The Political Crisis of 375/376," *Chiron* 43 (2013): 357–409 at 375–76n76; and Jan den Boeft, Jan Willem Drijvers, Daniël den Hengst, and Hans Teitler, *Philological and Historical Commentary on Ammianus Marcellinus XXIX* (Leiden: Brill, 2013), 8–9.

2. On the specific practices prohibited by Valentinian and Valens's legislation, see Rita Lizzi Testa, *Senatori, popolo, papi: Il governo di Roma al tempo dei Valentiniani* (Bari: Edipuglia, 2004), 11–27, 209–305; Noel Lenski, *Failure of Empire: Valens and the Roman State in the Fourth Century A.D.* (Berkeley: University of California Press, 2002), 213–14, 218–23; Edward J. Watts, *Final Pagan Generation* (Oakland: University of California Press, 2015), 136–37; Codex Theodosianus (hereafter CTh) 9.16.9–10 (371 CE), 9.38.4 (368 CE).

3. Eunapius compares the mass executions of the accused to "the culling of herds" (*Vitae sophistarum* 480); cf. John Matthews, *The Roman Empire of Ammianus* (Baltimore: John Hopkins University Press, 1989), 222–23.

and innocent alike to the executioner without opportunity for defense.⁴ Faced with such brutality and unable to avert the brunt of imperial law, Ammianus describes Antioch suffering from cataclysmic psychological strain, reporting that the entire city was “drenched with grief and tears” and that its inhabitants “all crept about as if in the shadows of the underworld” with “swords hanging over their heads.”⁵ Two further eyewitnesses, John Chrysostom and Libanius, confirm this dire assessment, recalling Antioch’s citizens cowering under constant fear of accusation and oppressive imperial surveillance, as an escalated police presence conducted intrusive searches of private homes and correspondence to root out evidence of malfeasance.⁶

Together, the writings of these three authors and their contemporaries have enshrined the *maiestas* and *maleficium* investigations in 372, if not as a full-blown reign of terror, at the very least as a sign of Valens’s “excessive” reaction and failure to uphold the levels of *clementia* and moderation expected of just rulers.⁷ Recent reevaluations, however, have indicated the methodological difficulties of assuming literary accounts contain reliable assessments of legal processes and subjective categories like violence and terror, signaling that caution should be used when assessing the Antiochene

4. Three comments indicate his presence at the trials or in the city: Ammianus Marcellinus, *Res gestae* 29.1.24, 29.2.4, 29.2.15. On Ammianus’s experiences of the trials and his residency in Antioch, see Kelly, “Ammianus, Valens, and Antioch,” 143–45, 157; Gavin Kelly, *Ammianus Marcellinus: The Allusive Historian* (Cambridge: Cambridge University Press, 2008), 71–75, 105, 114–18; Michael Kulikowski, “Coded Polemic in Ammianus Book 31 and the Date and Place of Its Composition,” *Journal of Roman Studies* 102 (2012): 79–102 at 91–98. For a critical edition of Ammianus’s Latin text, see Wolfgang Seyfarth, ed., *Ammiani Marcellini Rerum Gestarum Libri Qui Supersunt*, vol. 2 (Leipzig: B. G. Teubner, 1978).

5. Ammianus, *Res gestae* 29.2.1: *clades alias super alias cumulando, lacrimis universa perfuderat luctuosis*; 29.2.4: *omnes ea tempestate velut in Cimmeriis tenebris reptabamus, . . . occipitiis incumbentes gladios perhorrebant* (Seyfarth, *Ammiani Marcellini*, 104–105). Translations of Ammianus throughout are drawn from John C. Rolfe, *Ammianus Marcellinus*, vol. 3, Loeb Classical Library 331 (Cambridge, MA: Harvard University Press, 1939) with slight alterations.

6. Libanius, *Orationes* 1.171–176; John Chrysostom, *In acta apostolorum homiliae* 38.5, in S. P. N. Joannis Chrysostomi Opera Omnia Quae Exstant, ed. J.-P. Migne, *Patrologia Graeca* (hereafter PG) 60 (Paris: Imprimerie Catholique, 1862), 274–75. For discussion of Libanius’s first oration, see Lieve Van Hoof, “Libanius’ *Life* and *Life*,” in *Libanius: A Critical Introduction*, ed. L. Van Hoof (Cambridge: Cambridge University Press, 2014), 7–38. For a critical edition of Libanius’s first oration, see Richard Foerster, ed., *Libanii Opera*, vol. I, fasc. I, orationes 1–5 (Leipzig: B. G. Teubner, 1903), 79–206.

7. Ammianus explicitly blames Valens’s “excessive power,” “intolerable anger,” and lack of restraint for the severity of the trials (*Res gestae* 29.2.12, 29.1.20), an explanation which is accepted by Lenski, *Failure of Empire*, 214, 230–34.

trials from a literary lens.⁸ Ammianus's accounts of the contemporaneous *maiestas* and *maleficium* trials in Rome have also been proven unreliable on numerous fronts. Altay Coşkun, among others, has demonstrated that Ammianus deliberately distorts the scope, pacing, and legal particularities of the charges in the Roman trials to undermine their justification and evoke greater sympathy for the empire's senatorial class.⁹ Similar concerns have been lodged about Ammianus's highly selective and dramatic descriptions of Valens's actions during the Antiochene trials,¹⁰ as well as his negative characterization of Valens and Valentinian's reigns more generally,¹¹ though Ammianus's specific allegations of procedural irregularities, judicial abuse, and police corruption during the Antiochene trials have been subject to less scrutiny.¹²

This article examines not only Ammianus's but also Chrysostom's and Libanius's accounts to parse the details of the imperial juridical and policing response throughout the investigations. As we will see, the investigations' judicial tactics and high-visibility policing were undoubtedly rigorous and demonstrate the determination of Valens and his administration to respond to potential sedition among Antioch's community with the full brunt of Roman law and military action. Many elements of the imperial response had the potential to exacerbate local concerns about the application of *maiestas* law and the forceful imposition of intrusive policing practices on the

8. Martin Zimmerman, "Violence in Late Antiquity Reconsidered," in *Violence in Late Antiquity: Perceptions and Practices*, ed. H. A. Drake (Burlington: Ashgate, 2006), 343–57 and Julia Hillner, *Prison, Punishment and Penance in Late Antiquity* (Cambridge: Cambridge University Press, 2015), 137–39. On the rhetorical bias and limitations of Chrysostom and Libanius's accounts, see Dorothea R. French, "Rhetoric and the Rebellion of A.D. 387 in Antioch," *Historia: Zeitschrift für Alte Geschichte* 47 (1998): 468–84 at 470–71.

9. Altay Coşkun, "Ammianus Marcellinus und die Prozesse in Rome (a. 368/69–71/74)," *Tyche* 15 (2000): 63–92; Lenski, *Failure of Empire*, 213–14; Lizzi Testa, *Senatori, popolo, papi*, 27–49.

10. Marie-Anne Marié, "Deux sanglants épisodes de l'accession au pouvoir d'une nouvelle classe politique: Les grands procès de Rome et d'Antioche chez Ammien Marcellin, *Res gestae* XXVIII, 1; XXIX, 1 et 2," in *De Tertullien aux Mozarabes: Antiquité tardive et christianisme ancien (IIIe–VIIe siècles)*. *Mélanges offerts à Jacques Fontaine*, I, ed. Louis Holtz and Jean-Claude Fredouille (Paris: Institut d'études Augustiniennes, 1992), 349–60; and Kelly, "Ammianus, Valens, and Antioch," 137–43, 155–59.

11. Jan Willem Drijvers, "Decline of Political Culture: Ammianus Marcellinus' Characterization of the Reigns of Valentinian and Valens," in *Shifting Cultural Frontiers in Late Antiquity*, ed. David Brakke, Deborah Deliyannis, and Edward Watts (London: Routledge, 2012), 85–97.

12. Jill Harries, *Law and Empire in Late Antiquity* (Cambridge: Cambridge University Press, 1999), 122–23, posits that Ammianus exaggerated his description of the brutality of the interrogations "to maximise pity and terror" for the victims, some of whom were known to the historian.

Antiochene populace.¹³ However, close analysis of Ammianus's allegations of judicial abuse and illegality casts doubt on their veracity. While some abuses of the law may have occurred, a comparison of Ammianus's accounts alongside legal precedents, imperial rescripts, and other contemporary sources reveal his rampant application of well-known topoi of provincial maladministration to deepen his criticism of Valens's moral failings and the corruption of the judicial-policing apparatus.

In addition, Ammianus reveals a deliberate pattern of obfuscation concerning Valens's efforts to balance the need for decisive deterrents with deference to Antiochene concerns. Most notably, Ammianus omits mention of a little-studied public protest recorded in Chrysostom's *De incomprehensibili Dei natura* that successfully lobbied Valens to pardon one of the accused during the trials.¹⁴ Though this concession may seem paltry compared to the weight of the judicial and policing apparatus levered upon the public, this article concludes that this pardon is but one of several incidents that indicate the success of Antiochene lobbying efforts and Valens's attempts to maintain a constructive imperial-urban relationship with Antioch's populace throughout the trials.

By elaborating on this interplay of legitimately rigorous imperial deterrents and rhetorically exaggerated terror, this article reframes the Antiochene maiestas trials less as a crisis brought about by a one-way imposition of imperial power and more as one of numerous instances—such as the food scarcity crisis in Antioch during the 360s—in which imperial powers and urban communities drew on various communicative and crisis management strategies to resolve problems.¹⁵ These parties' diverging assessments of the risks posed by the conspiracy and divinatory practices sometimes led them to work at cross purposes in their attempts to mediate the crisis, but both sides reveal an intent to muster human and material resources to lessen the crisis'

13. For discussion of the terms *police* and *policing* and their application in the Roman period, see Christopher J. Fuhrmann, *Policing the Roman Empire: Soldiers, Administration, and Public Order* (Oxford: Oxford University Press, 2012), 5–15.

14. John Chrysostom, *De incomprehensibili Dei natura* 3.7, in *S. P. N. Joannis Chrysostomi Opera Omnia Quae Exstant*, ed. J.-P. Migne, Patrologia Graeca 48 (Paris: Imprimerie Catholique, 1862), 726.

15. On crisis management as primarily the domain of state or governmental players, see Gregory K. Golden, *Crisis Management during the Roman Republic: The Role of Political Institutions in Emergencies* (New York: Cambridge University Press, 2013), 1–6, and Pauline Allen and Bronwen Neil, *Crisis Management in Late Antiquity (410–590 CE): A Survey of the Evidence from Episcopal Letters* (Leiden: Brill, 2013), 3–4.

impacts on the city of Antioch. In the process, this article not only forces a reconsideration of Valens's relationship with his de facto imperial capital throughout the trials and his depiction as one of the notoriously "bad emperors" of Ammianus's history but also augments our understanding of imperial efforts to police, protect, and appease eastern urban populations throughout the late fourth century.

1. PARSING THE IMPERIAL JUDICIAL AND POLICING CRISIS RESPONSE

Extant accounts allow us to reconstruct multiple prongs of the imperial crisis response to the events of 371–72. In addition to the judicial investigations described by numerous sources, Chrysostom and Ammianus describe a coordinated imperial strategy of public punishments and high-visibility policing meant to impress upon the Antiochene populace the power of the imperial state during the trials. To understand the rigor and alacrity of these imperial tactics, we must look first not to the Antiochene experience of the trials but to imperial perspectives on the dangers posed by the conspiracy.

According to Ammianus, the imperial crisis response began as a judicial inquiry shortly after Valens returned to the eastern metropolis in the winter of 371, when witness testimony in an ongoing embezzlement case indicated the existence of a conspiracy and its attempts to discover the name of Valens's successor in an elaborate divination ritual.¹⁶ Valens and his administration quickly delegated the investigations to a tribunal overseen by Domitius Modestus, who had experience prosecuting conspirators in Scythopolis under Constantius II.¹⁷ The choice of Modestus, an experienced prosecutor, foreshadowed the severity and swiftness with which the investigations would unfold.¹⁸ Nearly immediately, Ammianus reports, those accused of participating in or having direct knowledge of the conspiracy were arrested in Constantinople, Britain, and elsewhere and summoned to Antioch for

16. Ammianus, *Res gestae* 29.1.5–9; cf. Zosimus, *Historia nova* 4.13.3–4. On the divinatory rite and its interpretation, see Matthews, *Roman Empire of Ammianus*, 219–22; Lenski, *Failure of Empire*, 223–24; Warren Treadgold, "Predicting the Accession of Theodosius I," *Mediterraneo Antico* 8 (2005): 767–91; Tadeusz Zawadzki, "Les procès politiques de l'an 371/372 (Amm. Marc. XXIX, 1, 29–33; Eunapius, *Vitae Soph.* VII, 5, 3–4; D 480)," in *Labor Omnibus Unus: Gerold Walser zum 70: Geburtstag dargebracht von Freunden, Kollegen und Schülern*, ed. Heinz E. Herzig and Regula Frei-Stolba (Stuttgart: Steiner, 1989), 274–87.

17. Ammianus, *Res gestae* 29.1.10. On Domitius and his career, see Domitius Modestus 2 in *The Prosopography of the Later Roman Empire: A.D. 260–395*, ed. A. H. M. Jones, J. R. Martindale, and J. Morris, vol. 1 (Cambridge: Cambridge University Press, 1971), hereafter *PLRE* 1.

18. Lenski, *Failure of Empire*, 106–107.

interrogation and trial. The public dungeons, he claims, were soon “full to overflowing” with “a number of men, conspicuous for their rank and high birth,” and preliminary investigations were “carried on day and night” as Valens and the tribunal assessed the scale of the conspiracy.¹⁹ Despite their speed and scope, Ammianus grants his begrudging approval to these early exacting measures and deems Valens’s attention to preserving his life and eliminating threats to the throne justified, especially in light of the extensive evidence against the conspirators.²⁰

Where Ammianus’s and Libanius’s criticisms arise, however, is in the second stage of the judicial inquiry, when the brunt of imperial scrutiny fell on Antioch’s residents. According to the two authors, Valens and his administration first turned their attention to investigating Antioch’s curial classes, who were suspected of sympathizing with the conspirators. These inquiries then enveloped a wider swath of the population as the tribunal began to examine the broader use of divination and related practices within the city and the surrounding territories.²¹ Ammianus attributes this rapid escalation in scope not only to the paranoia of Valens and the “base” encouragement of his advisors but also to the testimony of a handful of “lowborn” accusers, such as Palladius who was given “leave to name all whom he desired, without distinction of fortune, . . . some on the ground of having stained themselves with the knowledge of magic, others as accomplices of those who were aiming at treason.”²² This “lowborn” testimony and scrutiny of magical practices, Ammianus claims, quickly ensnared “men of almost all ranks” in the investigations, including the consuls Eusebius and Hypatius, the *notarius* Bassianus, and Alypius, the former *vicarius* of Britain, and his son Hierocles, all of whom had Antiochene or eastern connections.²³ As he does in the

19. Ammianus, *Res gestae* 29.1.12–14, 29.1.44, 29.2.10.

20. Eyewitness testimony, incriminating personal letters, and even the tripod used in the divination ritual are produced in court; Ammianus, *Res gestae* 29.1.18, 29.1.28, 29.1.35.

21. The distinctions between the initial and subsequent waves of investigations are blurred in Ammianus and other authors, perhaps purposefully so; see Ammianus, *Res gestae* 29.1.25, 29.1.40, 29.2.1, 29.2.10; cf. Zosimus, *Historia nova* 4.14.1–2; Marié, “Deux sanglants épisodes,” 356–57; Lenski, *Failure of Empire*, 225; Franz J. Wiebe, *Kaiser Valens und die heidnische Opposition*, Antiquitas, Abhandlungen zur alten Geschichte 44 (Bonn: Habelt, 1995), 119–42. The investigations later spread to the surrounding areas overseen by the proconsul Festus of Tridentum, possibly indicating a third stage of the Antiochene trials, see Ammianus, *Res gestae* 29.2.22–24.

22. Ammianus, *Res gestae* 29.2.1–2, 29.1.25.

23. Alypius sent his son Hierocles (*PLRE* 1, Alypius 4, Hierocles 1) to be educated under Libanius in Antioch. Hypatius and Eusebius lived in Antioch, at least after the trials (*PLRE* 1, Hypatius 4, Flavius Eusebius 40). Bassianus’s family had connections across the region; see *PLRE* 1,

contemporaneous Roman trials, Ammianus asserts that the full number of the accused “would be difficult to enumerate by name,” preferring to allude to the multitudes who “wearied the arms of the executioners after being first crippled by rack, lead, and scourge.”²⁴

Though this summative coverage hints at Ammianus’s efforts to exaggerate the investigations’ encompassing scope, Libanius’s testimony corroborates the thoroughness with which Valens’s administration examined potential accomplices among the Antiochene populace. Libanius reports that he and other associates became targets of imperial suspicion after their friend, the soothsayer Irenaeus, was named by Palladius as one of the diviners involved in attempts to uncover Valens’s successor.²⁵ Irenaeus, he recalls, made a dire decision to prevent his own accusation from ensnaring the others. Out of fear that he would falsely implicate his friends if interrogated under torture, Irenaeus preemptively committed suicide before he could be arrested.²⁶ Even after Irenaeus’s preemptive death, Libanius worries that letters he had sent to an augur might implicate him in forbidden divinatory practices.²⁷ He is never officially charged, but his experiences and Irenaeus’s early death illustrate the investigations’ harrowing impacts on Antioch’s elite and confirm that more Antiochenes were placed under investigation than the handful Ammianus identifies by name. Ammianus and Libanius both decry these expansive investigations as intrusive and unnecessary assaults against Antioch’s social elite, but imperial risk assessments and recent events undoubtedly shaped the decision to investigate not merely treasonous sentiment but a wider swath of magical practices among the Antiochene populace.

Recent attempts on Valens’s life and Procopius’s rebellion six years prior had reinforced the danger of allowing seditious sentiment to fester unchecked

Bassianus 2, and more ahead. Patricius (*PLRE* 1, Patricius 3) was reportedly from nearby Lydia, and Hilarius (*PLRE* 1, Hilarius 6) from Phrygia. The *origo* of others named by Ammianus in the first and second stages of the trials are unknown: Fidustus, Euserius, Pergamius, Salia (*PLRE* 1, Salia 1), Simonides, Diogenes (*PLRE* 1, Diogenes 5). Several are known not to be from Antioch: Theodorus (*PLRE* 1, Theodorus 13), Eutropius (*PLRE* 1, Eutropius 2), Maximus (*PLRE* 1, Maximus of Ephesus 21), and Coeranius.

24. Ammianus, *Res gestae* 29.1.40.

25. On Irenaeus and Palladius, see Robert M. Frakes, “Some Late Antique People: Addenda to ‘PLRE’ 1,” *Historia: Zeitschrift für Alte Geschichte* 47, no. 3 (1998): 378–81. On Libanius’s diminished influence under Valens and the likelihood that residual suspicion of his connections with Julian shaped this line of investigation, see Watts, *Final Pagan Generation*, 137–39.

26. Libanius, *Orationes* 1.172–174.

27. Libanius, *Orationes* 1.177–178.

in eastern cities.²⁸ In a matter of months in 365–66, Procopius had rallied citizens of Constantinople, Nicaea, Chalcedon, Nicomedia, and Helenopolis behind his banner and launched a full-scale armed resistance that was only pacified after months of military conflict.²⁹ Like Procopius’s coalition, the recent conspiracy was helmed by disaffected bureaucrats and notarii with connections not only to Constantinople where Procopius found supporters but to an expansive range of urban centers across the empire.³⁰ Among the co-conspirators were an acting proconsul of Asia, a former governor of Bithynia, two former vicars of Asia and Britain, and a former treasury official, among other court officials, notarii, patricians, intellectuals, and philosophers.³¹ Theodorus’s former positions under Julian and current career as a notarius also mirrored Procopius’s earlier career trajectory as *tribunus et notarius* under Constantius II and *comes* under Julian, encouraging Valens’s administration to make close comparisons between the two would-be usurpers.³² These marked parallels between the recent conspirators and Procopius’s usurpation six years earlier, as well as the conspirators’ wealth, connections, and knowledge of the administration’s inner workings, reinforced the assessment that Valens’s administration risked a sudden outbreak of warfare throughout the region unless rapid countermeasures were taken.³³ Indeed, Ammianus reports that the administration orchestrated Theodorus’s arrest in Constantinople with great haste, indicating imperial fears that

28. Ammianus, *Res gestae* 29.1.16.

29. On Procopius’s usurpation and claims to legitimacy, see Ammianus, *Res gestae* 26.6–8; Lenski, *Failure of Empire*, 75–110; Watts, *Final Pagan Generation*, 132–34.

30. Lenski, *Failure of Empire*, 72–73, 104–5, 226–30. Franz Wiebe in *Kaiser Valens und die heidnische Opposition* argues that Procopius’s rebellion and the Theodorus’s affair were two interconnected attempts by an organized pro-Julianic “pagan opposition” to reassert their influence over the eastern empire, but Lenski’s assessment that this was not the work of “an organized, unified pro-Julianic pagan opposition” but rather an “ill-advised effort on the part of educated pagans to predict the fate of a not particularly successful emperor whom they thought unsavory” is more persuasive; see Lenski, *Failure of Empire*, 213–32, with accompanying bibliography.

31. On the careers of the conspirators, see Den Boeft et al., *Philological and Historical Commentary*, 24–25; Matthews, *Roman Empire of Ammianus*, 221–22; Lenski, *Failure of Empire*, 229–30, with accompanying bibliography. See William G. Sinnigen, “Two Branches of the Late Roman Secret Service Spies,” *American Journal of Philology* 80, no. 3 (1959): 238–54 at 245–47, 254; Rose M. Sheldon, *Intelligence Activities in Ancient Rome: Trust in the Gods, but Verify* (London: Routledge, 2005), 264, on the role of the notarii in cases of treason in the fourth century.

32. Lenski, *Failure of Empire*, 70, 224–30; Wiebe, *Kaiser Valens*, 111–16.

33. Lenski, *Failure of Empire*, 115, 230, briefly notes that memories of Procopius’s revolt in Asia contributed to Valens’s “nagging fear of usurpers” and harsh response during the Theodorus affair but does not engage with the association’s repercussions.

Theodorus and his supporters might draw on the same base of military support that had fueled Procopius's rise.³⁴

Procopius's remarkable success in garnering support from disaffected bureaucrats and military leaders also laid bare the dangers posed by Antioch, another eastern center with a large military presence and a population that was uneasy with Valens's recent tax levies.³⁵ Though Antioch had not participated in Procopius's rebellion six years before, the distaste of its curial classes for recent imperial policies may have led Valens and his advisors to believe that some Antiochenes would welcome a new ruler who better represented their own interests and educational attainment.³⁶ Precautions taken in the early stages of the trials indicate that Valens and his administration were deeply uncertain of Antioch's allegiances and were actively on guard against popular unrest within the Syrian capital. Ammianus reports that Theodorus, after being arrested in Constantinople and extradited to Antioch, was not imprisoned within the city's *carcer* but instead "hidden away in a sequestered part of the countryside" in advance of his trial.³⁷ The decision to enforce physical distance between Theodorus and Antioch's residents—and, more pointedly, between Theodorus and the city's military forces—signals that Valens and his advisors feared that the unveiling of the conspiracy might spur Antioch's citizenry to agitate on Theodorus's behalf. These cautious arrangements indicate that Valens and his advisors perceived the conspiracy as a burgeoning military-security crisis that might take root in Antioch and Constantinople and quickly engulf the entire region.

With this risk assessment guiding imperial actions, the rigorous efforts to identify and prosecute any Antiochenes who harbored seditious sentiments or might undermine Valens's legitimacy through divinatory practices must

34. Ammianus, *Res gestae* 29.1.12. Den Boeft et al., *Philological and Historical Commentary*, 24, calculate that the entire operation to arrest Theodorus and bring him from Constantinople to Antioch may have been completed in as little as one month.

35. On Antioch's role as a fourth-century base of imperial and military operations, see Jorit Wintjes, "Die unbekannte Metropole—Antiochien und die römische Armee," in *Antioch II: The Many Faces of Antioch: Intellectual Exchange and Religious Diversity, CE 350–450*, ed. Silke-Petra Bergjan and Susanna Elm (Tübingen: Mohr Siebeck, 2018), 75–102 at 90–100, and more generally Susanna Elm, "The Many Faces of Antioch," in Bergjan and Elm, *Antioch II*, 1–10.

36. On the recent tax and hiring policies, which disadvantaged Antioch's curial class, see Watts, *Final Pagan Generation*, 130–35, and on the trend more generally, Lukas de Blois, *Image and Reality of Roman Imperial Power in the Third Century AD: The Impact of War* (London: Routledge, 2018), 187–227.

37. Ammianus, *Res gestae* 29.1.14: quo in devia territorii parte abscondito (Seyfarth, *Ammiani Marcellini*, 98); cf. Den Boeft et al., *Philological and Historical Commentary*, 26.

have seemed a prudent course of action. As this was Valens's first extended term of residence in Antioch, ensuring the loyalty of Antioch's influential curial classes was of paramount importance, and the strong evidence that divinatory practices were foundational in fomenting the conspiracy and had granted Theodorus a sense of legitimacy indicated the dangers of allowing such practices to continue in the hands of eastern elites whose allegiance was unreliable. Imperial assessments that the situation could rapidly escalate into military conflict also explain the administrations' use of high-visibility military-policing measures to suppress armed insurrection and deter association with magical practices in the capital.

Evidence of these high-visibility military-policing measures can be found in Chrysostom's Homily 38 on the Acts of the Apostles, in which the homilist recalls the heightened surveillance in Antioch during the investigations. As he remembered, there was a notable escalation in the quantity and frequency of the military patrols both outside and within in the city:

Long ago a zealous suspicion of usurpers was stirred up in our city (I happened at that time to be but a youth), and when all the soldiers were stationed at the outskirts of the city, they also, as it happened, made a pretense of conducting a strict search for books of sorcery and magic.³⁸

In regular circumstances, a range of figures and entities that we might recognize as police were delegated with imperial authority and tasked with keeping order throughout Antioch. Libanius attests to the presence of “club bearers” (κορυνφόροι) and “guardians of the peace” (εἰρηνοφύλακες) under the command of the Antiochene curial elites on the boule council, as well as “tribal magistrates” (ἐπιμεληταὶ τῶν φυλῶν) who aided in investigations and gathered testimony against malefactors.³⁹ We might also assume that regional irenarchs, civilian magistrates (στρατηγοί), and their attendants played a role in keeping the peace, as in other provincial communities.⁴⁰

Valens and his administration may have coopted some of these individuals to continue routine police work throughout the trials, but Chrysostom's recollections indicate that the “soldiers” (οἱ στρατιῶται) who were normally

38. John Chrysostom, *In acta apostolorum homiliae* 38.5 (Migne, *Joannis Chrysostomi*, PG 60:274): Ἐκινήθη ποτὲ τυράννων ὑποψία ἐν τῇ πόλει τῇ ἡμετέρᾳ (τότε δὲ ἔτι μεράκιον ἤμην)· καὶ πάντων ἔξωθεν τὴν πόλιν παρακαθημένων τῶν στρατιωτῶν, τυχὸν ἀπλάστως βιβλία ἐζήτουν γοητικὰ καὶ μαγικά.

39. Libanius, *Orationes* 48.9, 24.6, 23.11; cf. J. H. W. G. Liebeschuetz, *Antioch: City and Imperial Administration in the Later Roman Empire* (Oxford: Clarendon Press, 1972), 122–23.

40. Fuhrmann, *Policing the Roman Empire*, 157, 165.

stationed outside the city were also tasked with conducting searches for magical texts within the city. By Jorit Wintjes's estimates, more than ten thousand assorted soldiers, sailors, and imperial agents were stationed in Antioch's vicinity, and Valens's imperial bodyguard, who might have been called on to protect the well-being of their emperor, numbered an additional 3500 combatants.⁴¹ Diverting even a fraction of these soldiers from regular duties and reassigning them to the city's defenses or patrols would have noticeably swelled the ranks of Antioch's military police, making the heightened security measures readily apparent to the Antiochene populace. Chrysostom recalls his own intimidating experiences with these troops, reporting that during the height of the trials he and a friend were out on a walk and came across a discarded book on the banks of the Orontes.⁴² Dragging the waterlogged text from the river, they discovered to their horror that it was a book of magic (ἐγγεγραμμένα μαγικά), discarded by its former owner. Immediately "transfixed with fear" (ἐπεπήγει τῷ δέει), Chrysostom and his companion noticed a soldier (στρατιώτης) fast approaching.⁴³ Suddenly overwhelmed by the "great peril" of their situation, the two panicked and began to despair that they would be arrested should the soldier discover the book in their possession. Ultimately, the soldier miraculously passed them by allowing them to dispose of the text unobserved, a feat that Chrysostom attributes to the intervention of God.

While citizens like Chrysostom might have found the presence of these imperial troops intimidating, bolstering the local forces with imperial troops provided many tactical benefits for Valens and his administration. The move ensured that sufficient forces could be quickly mobilized if Valens and his administration came under attack from outside the city or if unrest arose within Antioch's city limits. Antioch's resident security police forces often proved insufficient to suppress large-scale urban violence when it did occur, so the increased forces were a necessary precaution.⁴⁴ Delegating police work during the investigations to imperial-commanded soldiery also ensured that their conclusions were not influenced by local politics or loyalties.⁴⁵ Many of

41. Wintjes, "Die unbekannte Metropole," 84–85, 90, 95–97.

42. John Chrysostom, *In acta apostolorum homiliae* 38.5 (Migne, *Joannis Chrysostomi*, PG 60:274–275); cf. Matthews, *Roman Empire of Ammianus*, 222–23.

43. On the use of the term *soldier* to indicate members of the imperial army or security forces, see Liebeschutz, *Antioch*, 124.

44. Liebeschutz, 124–26.

45. Local police and fire brigades could wield political influence and exacerbate tensions in restive provincial communities; see Pliny, *Epistulae* 10.34, and Fuhrmann, *Policing the Roman Empire*, 161–63.

Antioch's usual policing groups were under the command of the governor or Antioch's boule council, which represented the interests of the curial elite who were now under suspicion. Deploying imperial troops outside the city and coopting them for use in the ongoing "searches for books on sorcery and magic" were also potent forms of imperial communication with the Antiochene community at large. For those who sympathized with the conspiracy, the military police presence served as warning that Valens and his administration were alert to any attempts at armed insurrection. For Antiochenes worried that the recent conspiracy had undermined Valens's imperial authority or would result in violence, the military deployment in the city reassured them that the city was protected and that Valens's control of the military—one of the primary indicators of his authority as emperor—remained intact.

A similarly protective and communicative purpose can be attributed to the high-visibility public punishments and book burnings carried out by Valens's administration. Ammianus frequently describes the grim response of the crowd to the mass executions conducted in public, reporting that many spectators "could hardly look upon the dreadful sight without inward shuddering and burdening the air with laments."⁴⁶ Chrysostom also recalls witnessing a man convicted of possessing illicit magical treatises "paraded around the entire city in bonds," though he seems content that such treatment reflected the man's guilt.⁴⁷ Such theatrical displays did have the potential to inspire terror among Antiochene eyewitnesses, but their frequent use in Roman punishment merely signaled that Valens and his administrators were, as was common, utilizing the public punishment of convicted criminals to impress upon the Antiochene populace the consequences of transgressive behavior and to reinforce imperial control over the proceedings.⁴⁸

46. Ammianus, *Res gestae* 29.1.38: *vix sine animorum horrore funestum spectaculum multitudine innumera contuente et onerante questibus caelum* (Seyfarth, *Ammiani Marcellini*, 102-3).

47. John Chrysostom, *In acta apostolorum homiliae* 38.5 (Migne, *Joannis Chrysostomi*, PG 60:274): *περίηγετο τὴν πόλιν ἅπασαν δέσμιος*.

48. On public displays of judicial violence and their impacts on Roman viewers, see Maud W. Gleason, "Truth Contests and Talking Corpses," in *Constructions of the Classical Body*, ed. James I. Porter (Ann Arbor: University of Michigan Press, 1999), 287-313 at 299-302; Neil W. Bernstein, "Torture Her Until She Lies": Torture, Testimony, and Social Status in Roman Rhetorical Education," *Greece & Rome* 59, no. 2 (2012): 165-77 at 166-69; Harries, *Law and Empire in Late Antiquity*, 122-34, 151; Zimmerman, "Violence in Late Antiquity Reconsidered," 347-48, 356; Brent D. Shaw, "Judicial Nightmares and Christian Memory," *Journal of Early Christian Studies* 11 (2003): 533-63 at 536-39; and Ari Z. Bryen, "Martyrdom, Rhetoric, and the Politics of Procedure," *Classical Antiquity* 33 (2014): 243-80 at 243, 248-49.

This messaging was reinforced by the administration's book-burning demonstrations wherein texts containing illicit magical knowledge were publicly destroyed.⁴⁹ Ammianus describes these events, reporting that during the trials "innumerable writings and many heaps of volumes were hauled out from various houses and under the eyes of the judges were burned in heaps as being unlawful, to allay the indignation at the executions."⁵⁰ Ammianus's insistence that these events occurred after executions and were conducted "under the eyes of the judges" (*sub conspectus iudicum*) signals that these demonstrations were official, sanctioned actions.⁵¹ Presumably, these demonstrations were publicized as both punitive and protective measures to demonstrate the consequences of associating with magical practices and to ensure the safety of the emperor and Antiochene community from the magical manipulations of others. The burning of magical books was also prescribed in the same provisions that decreed financial losses and exile for those in possession of magical texts; therefore, the existence of these bonfires suggests that Valens and his administrators were enforcing a straightforward interpretation of the law.⁵²

Despite the legality of these demonstrations, Ammianus again aims to undermine the efficacy and motivations of these displays, cynically alleging that many of the tomes destroyed were innocent "treatises on the liberal arts and on jurisprudence" and that the demonstrations were falsely and retroactively devised to justify the executions that had already been completed. Book burning was often associated with tyrannical behavior and a lack of proper respect for intellectualism, so highlighting Valens's unnecessary destruction of texts also reinforced Ammianus's general depiction of Valens as uncultured

49. For prohibitions against magical texts during the trials, see Wiebe, *Kaiser Valens*, 119–30, and Lenski, *Failure of Empire*, 225. On the practice of book burning more generally, see Dirk Rohmann, "Book Burning as Conflict Management in the Roman Empire (213 BCE–200 CE)," *Ancient Society* 43 (2013): 115–49 at 116; Joseph A. Howley, "Book-Burning and the Uses of Writing in Ancient Rome: Destructive Practice between Literature and Document," *Journal of Roman Studies* 107 (2017): 213–36; and Daniel Sarefield, "The Symbolics of Book Burning: The Establishment of a Christian Ritual of Persecution," in *The Early Christian Book*, ed. William E. Klingshirm and Linda Safran (Washington, DC: Catholic University of America, 2007), 59–73.

50. Ammianus, *Res gestae* 29.1.41: Deinde congesti innumeri codices et acervi voluminum multi sub conspectu iudicum concremati sunt ex domibus eruti variis ut illiciti ad leniendam caesorum invidiam, cum essent plerique liberalium disciplinarum indices variarum et iuris (Seyfarth, *Ammiani Marcellini*, 103).

51. Den Boeft et al., *Philological and Historical Commentary*, 66, 79.

52. Paulus, *Sententiae* 5.23.18, CTh 1.4.2 (328 CE); cf. Dirk Rohmann, *Christianity, Book-Burning and Censorship in Late Antiquity: Studies in Text Transmission* (Berlin: De Gruyter, 2016), 26.

and uneducated.⁵³ Lambasting these demonstrations as futile and empty gestures also demonstrated for Ammianus the false premises on which the trials were built and the administration's failure to suppress the magical knowledge it sought to eradicate.⁵⁴ From the imperial perspective, however, the complete eradication of offending magical knowledge was unlikely to be a primary goal. Destroying isolated libraries or books were largely ineffective measures, since a single preserved copy could ensure a text's perpetuation.⁵⁵ But book burnings carried out in due pomp and circumstance, with the full backing of the imperial administration and accompanied by the legitimizing presence of judges, branded the possession of such books as a transgressive act and modeled for Antiochenes the proper rigor with which they should disassociate themselves from such knowledge.⁵⁶

All three eyewitnesses indicate the widespread efficacy of these imperial measures, recalling a variety of instances where Antiochenes chose to destroy magical texts and avoid seditious speech out of fear of prosecution. Chrysostom, for example, attributes his desperation to rid himself of the waterlogged magical treatise not only to his fear of arrest but also to his memories of the procession of convicted prisoners he had previously seen. Libanius likewise recounts efforts to censor his correspondence in order to avoid the prosecutions entrapping his close associates. The orator reports having "misgivings" about the contents of several letters. Libanius asserts that "there was nothing wrong" in these missives but rejoices when they are suppressed, since he no longer worried about the consequences of the letters falling into the hands of imperial informers.⁵⁷ Libanius's comments also demonstrate that he would have thought twice about the potential consequences when next he turned to

53. Drijvers, "Decline of Political Culture," 94–96, and Kelly, *Allusive Historian*, 310–13.

54. Alexei V. Zadorojnyi, "Lords of the Flies: Literacy and Tyranny in Imperial Biography," in *The Limits of Ancient Biography*, ed. Brian McGing and Judith Mossman (Swansea: Classical Press of Wales, 2006), 351–94 at 358–62.

55. Rohrmann, "Book Burning as Conflict Management," 116; Howley, "Book-Burning and the Uses of Writing," 224–28.

56. Howley, "Book-Burning and the Uses of Writing," 218–19; Vasily Rudich, "Navigating the Uncertain: Literature and Censorship in the Early Roman Empire," *Arion* 14, no. 1 (2006): 7–28 at 24.

57. Libanius, *Orationes* 1.175; translations of Libanius's first oration throughout derive from A. F. Norman, *Libanius: Autobiography and Selected Letters* (Cambridge, MA: Harvard University Press, 1992). On the possibility that Libanius suppressed additional letters and writings composed under Valens to avoid legal repercussions or improve his reputation, see Lieve Van Hoof, "Self-Censorship and Self-Fashioning: Gaps in Libanius' Letter Collection," *Revue belge de philologie et d'histoire* 92 (2014): 209–29, esp. 209–16; Lieve Van Hoof, "The Letter Collection of Libanius of Antioch," in *Late Antique Letter Collections: A Critical Introduction and Reference Guide*, ed. C.

magical remedies, signaling that imperial scrutiny was having a tangible effect on limiting such practices among the populace.

Ammianus asserts that comparable efforts to disassociate from magical practices were even adopted in the regions surrounding Antioch.⁵⁸ Following the state-sanctioned book burnings, he reports that “throughout the eastern provinces owners of books, through fear of a like fate, burned their entire libraries; so great was the terror that had seized upon all.”⁵⁹ Though Ammianus paints these destructive actions as the result of irrational fear, the testimonies of Chrysostom and Libanius indicate that many may have taken the opportunity to dispose of personal possessions that were of legitimate interest to imperial prosecutors. It is noteworthy that none of these instances were official state actions but instead acts of self-censorship, in which private individuals preemptively destroyed, discarded, or burned their libraries to prevent their seizure by Roman authorities. From the imperial perspective, then, the combination of high-visibility policing, public punishment of the condemned, and book-burning demonstrations appears to have been remarkably successful in limiting seditious talk and association with magical practices not only among the Antiochene populace but also the larger eastern region.

Though Ammianus and other eyewitnesses could report in retrospect that these imperial deterrents were disproportionate to the threat at hand, Valens and his administration were not yet privy to that assessment in early stages of the investigations when the full scope of the conspiracy and Antiochene allegiances remained unknown.⁶⁰ We must also remember that, as much as Ammianus reports that “the woes of the accused were considered common to all,” for most of Antioch’s 150,000–170,000 residents, their primary experiences of the investigations were these public displays of imperial power.⁶¹ As such, they were important communicative tools that allowed Valens’s administration to deter insurrection and reinforce the dangers of associating with banned magical practices to the populace at large. It is from this calculation of the risks that the rigor behind the imperial crisis response becomes clear, and

Sogno, B. Storin, and E. Watts (Oakland: University of California Press, 2017), 113–30; and Watts, *Final Pagan Generation*, 139, 270–71n83–84.

58. Intrusive searches and confiscations of private letters and documents also occurred in areas overseen by Festus of Tridentum, see Ammianus, *Res gestae* 29.2.25–28.

59. Ammianus, *Res gestae* 29.2.4.

60. Imperial concerns seem to have conjured up a larger threat than there was in reality; Lenski, *Failure of Empire*, 227.

61. Ammianus, *Res gestae* 29.1.38: *singulorum mala omnium esse communia credebantur*.

close analysis of the judicial investigations and imperial policing tactics indicates that Valens and his administration levied these measures with more moderation and success than the harrowing accounts by Ammianus, Libanius, and Chrysostom would initially suggest.

2. REASSESSING ALLEGATIONS OF TERROR AND JUDICIAL ABUSE DURING THE TRIALS

Despite the legal and political rationale for these rigorous deterrents, there are ample reasons to believe that the broad scrutiny of Antioch's curial classes and the high-visibility policing measures exacerbated local concerns about their new resident emperor. Following so closely upon Valens's advent into the city, the swift imposition of such visible and intimidating reminders of the emperor's authority would have impressed on the Antiochene populace the stark consequences and burdens of having their city serve as his imperial residence. While some Antiochenes may have found the increased policing presence a reassuring sign of Valens's control over the situation, such overt displays of military force within urban centers often aggravated elite worries about armed conflict or violent resistance between soldiers and urban populations. For these reasons, military displays of force in urban centers were often used sparingly and only when emperors and magistrates could justify their presence as beneficial to the peace and safety of the entire community.⁶² Presenting the searches for magical texts as protective measures may have justified in the eyes of some residents the soldiery's presence throughout the trials, but the administration's decision to bypass Antioch's resident policing apparatus likely exacerbated perceptions that the imperial investigations were disrupting local power structures and taking excessive measures to surveil the Antiochene community.⁶³

Chrysostom's firsthand experience with these searches also demonstrates how quickly the actions of the military police could be perceived as a tool of intimidation. In Chrysostom's assessment, the mere presence of a text being held by two nervous youths was adequate cause for concern that the soldier might bring force to bear. Chrysostom's apprehension that the approaching

62. Benjamin Kelly, "Riot Control and Imperial Ideology in the Roman Empire," *Phoenix* 61, no. 1–2 (2007): 150–76, esp. 163–66. Troops were deployed against residents of Rome on several occasions in the late republic, sometimes with bloody consequences; see Wilfried Nippel, *Public Order in Ancient Rome* (Cambridge: Cambridge University Press, 1995), 80–84.

63. Imperial tribunals often sidestepped the authority of the local boule council; see Watts, *Final Pagan Generation*, 138, and Libanius, *Epistulae* 1376.

solider could detain him and immediately search his possessions also indicates that these patrols were empowered to conduct an ancient equivalent of “stop and frisk” detentions, which are known in the modern world to exacerbate tensions between law enforcement and the communities they police.⁶⁴ Moreover, Chrysostom’s recollections also suggest that the increased surveillance kept allies of the accused from offering testimony or providing aid on behalf of their family or friends, even those they knew to be innocent. Faced with the possibility of being detained with the magical text, Chrysostom recalls the feeling of isolation, lamenting, “For who would have believed our explanation that we had plucked it from the river, when all were at that time, even the unsuspected, under strict surveillance?”⁶⁵ Even if we suspect the homilist of exaggerating his sense of terror and isolation to accentuate the importance of God’s deliverance, the account clearly demonstrates the oppressive potential and wide latitude of these military police in conducting their searches on Antioch’s main thoroughfares.⁶⁶

Shifting interpretations of *maiestas* law across the fourth century may also have convinced Antiochenes that procedural elements of the trials were not in concert with their perceived rights under the law.⁶⁷ Ammianus and Libanius repeatedly insist that *maiestas* charges were inappropriate for many accused Antiochenes. Some, they propose, were completely innocent of the charges. Ammianus reports that Valens was “swift to assail . . . guilty and innocent under one and the same law,” and Libanius expresses concern about the merit of the accusations, reporting that “the emperor proceeded at first against the culprits, but there were added to the list names of men completely innocent of such a crime.”⁶⁸ Both authors also express their disapproval with the application of *maiestas* law to actions that they interpreted to be matters of private, harmless magic. Libanius, for example, complains that minor headache remedies had become treasonous offenses, remarking that Valens

64. For a synthesis of recent studies, see Michael D. White and Henry F. Fradella, *Stop and Frisk: The Use and Abuse of a Controversial Policing Tactic* (New York: New York University Press, 2016), 108–11.

65. John Chrysostom, *In acta apostolorum homiliae* 38.5 (Migne, *Joannis Chrysostomi*, PG 60:275).

66. On Chrysostom’s use of frightening stories to spur moral action and reflection, see Blake Leyerle, “John Chrysostom and the Strategic Use of Fear,” in *Social Control in Late Antiquity: The Violence of Small Worlds*, ed. Kate Cooper and Jamie Wood (Cambridge: Cambridge University Press, 2020), 173–87.

67. On the evolution of Valens and Valentinian’s legislation on *maiestas*, see Coşkun, “Ammianus Marcellinus,” 86–88, and Lizzi Testa, *Senatori, popolo, papi*, 213–48.

68. Ammianus, *Res gestae* 29.1.18; Libanius, *Orationes* 1.171.

had transgressed proper boundaries by assuming “every soothsayer was his foe” as well as any who “had recourse to this art.”⁶⁹ The inherent subjectivity in delineating dangerous magical practices from their more harmless counterparts undoubtedly led to disagreements about the propriety of the grave *maiestas* charges leveled by the administration.

Beyond mere differences in opinion, these disparities had drastic implications for the severity of interrogation, incarceration, and sentencing imposed on the accused. The assimilation of lesser charges like poisoning and divination with more severe charges like *maleficium* and *maiestas* resulted in a sudden explosion in the number of accused who were now susceptible to harsher legal punishments and liable to be subjected to the *quaestio*, the ritualized form of public interrogation under torture.⁷⁰ Ammianus does his utmost to condemn the brutality of these bloody spectacles, decrying the atrocities committed against the “bodies of free men” and describing the clanking of the chains, the shouts of the torturers, and the bodies of the accused, who were “tortured almost to death,” their sides “torn into bloody furrows.”⁷¹ According to Ammianus, the strain of imprisonment and the “immense dread” (*immensus terror*) of the *quaestio* even led Salia, the former treasurer of Thrace, to die of a stroke on the morning he was released from prison for trial.⁷²

As Altay Coşkun and Rita Lizzi Testa have previously noted, Ammianus’s efforts to paint Valens’s use of the *quaestio* on Antioch’s residents as an unduly harsh innovation of the law largely ignore that Constantinian laws had already established privileges of rank to be invalid in cases of *maiestas*.⁷³ In the years leading up to the trials, Valens and Valentinian reaffirmed many of these provisions, decreeing *maiestas* to be a charge “in which there is only one and the same status for all” and clarifying that all accused of *maiestas*,

69. Libanius, *Orationes* 1.171–173.

70. On the evolving penalties and definition of *maiestas* across the first to third centuries CE, see Markéta Melounová, “*Crimen Maiestatis* and the *Poena Legis* during the Principate,” *Acta Antiqua Academiae Scientiarum Hungaricae* 54 (2014): 407–30. On the imposition of torture that this assimilation allowed, see Harries, *Law and Empire in Late Antiquity*, 128–29.

71. Ammianus returns to these subjects on several occasions; see Ammianus, *Res gestae* 29.1.9, 29.1.23, 29.1.28, 29.1.33, cf. 29.1.44.

72. Ammianus, *Res gestae* 29.1.26. On Salia’s career, see Den Boeft et al., *Philological and Historical Commentary*, 42–43.

73. CTh 9.1.1 (317 CE) and CTh 9.5.1 (314/319–323 CE). Coşkun, “Ammianus Marcellinus,” 69–70; Lizzi Testa, *Senatori, popolo, papi*, 213–35. Substantial departures from established precedent elicited distrust and criticism of imperial powers; see Bryen, “Martyrdom, Rhetoric, and the Politics of Procedure,” 260–61.

regardless of rank, could be subject to the *quaestio* without imperial consultation.⁷⁴ Downgrading the charges from *maiestas* to the more harmless charges proposed by Ammianus and Libanius, however, would have allowed the accused to retain their privileges of rank, precluded the use of investigative torture while appeals were ongoing, preserved their ability to halt their trial during appeal, and prohibited the confiscation of their property after conviction.⁷⁵ The preservation of rank would also have prohibited the use of testimony from the lower classes against their social betters, an ongoing concern of Ammianus, and protected the accused from severe or capital sentences unless they confessed or the testimony of all parties was largely concordant.⁷⁶ Thus, without additional evidence that implied a strong likelihood of guilt, the prosecution should not have met the necessary burden of proof (*probatio*) to justify the application of the *quaestio* to the accused, much less convict them of charges.⁷⁷

Of course, Ammianus's protestations are complicated by the fact that strong suspicion was often enough to justify the application of torture before condemnation and judges were given latitude to evaluate what evidence was sufficiently serious to merit further investigation.⁷⁸ An earlier provision of

74. CTh 9.35.1 (369 CE). This imperial rescript, like many cited in this article, was issued by Valentinian in conjunction with Valens to address legal quandaries made by governors and administrators in the western regions of the empire. Much of Valens's eastern legislation has been lost, but a survey of legislation and executive decisions indicates that Valens often deferred to Valentinian's initiatives and implemented law codes and policies promulgated by Valentinian in eastern territories under his jurisdiction. Examples of Valens reissuing and clarifying policies formerly promulgated by Valentinian for eastern audiences in 371 CE (CTh 12.1.74, cf. CTh 12.1.57 and 12.1.69) indicate the pertinence of these jointly issued policies during Valens's terms of residence in Antioch; see Lenski, *Failure of Empire*, 23–35, esp. 32–35, and Sebastian Schmidt-Hofner, "Ostentatious Legislation: Law and Dynastic Change, AD 364–365," in *Contested Monarchy: Integrating the Roman Empire in the Fourth Century AD*, ed. Johannes Wienand (Oxford: Oxford University Press, 2015), 67–99 esp. 76nn35–37.

75. Janne Pölonen, "Plebeians and Repression of Crime in the Roman Empire: From Torture of Convicts to Torture of Suspects," *Revue internationale des droits de l'Antiquité* 51 (2004): 217–57 at 225–29, 248. Valentinian and Valens explicitly noted that the property of those convicted of lesser charges was to be preserved for the heirs of the deceased, and only the property of those condemned of *maiestas* would be transferred to the public fisc [CTh 9.42.6 (364 CE)]; cf. Schmidt-Hofner, "Ostentatious Legislation," 77. Their decree was notably more lenient than Constantius II's pronouncement of 358 CE that the property of all of those sentenced to capital punishment, regardless of charge, would be sent to the fisc (CTh 9.42.4).

76. CTh 9.40.1 (314 CE). On Ammianus's concerns about social status, see Marié, "Deux sanglants épisodes," 359–60.

77. Pölonen, "Plebeians and Repression of Crime," 219–28, 249–52.

78. On the latitude granted to magistrates, governors, and emperors, see Pölonen, "Plebeians and Repression of Crime," 230–35, and Ari Z. Bryen, "Judging Empire: Courts and Culture in Rome's Eastern Provinces," *Law and History Review* 30, no. 3 (2012): 771–811 at 775–76.

Valentinian and Valens from 369 also established that accusations of *maiestas* could not be annulled even when witness testimony was lacking until a thorough investigation was complete, locking many into the full brunt of a *maiestas* inquiry from the moment of accusation.⁷⁹ This provision, along with practices that encouraged all witnesses in *maiestas* cases to undergo the *quaestio*, ensured that many would be inextricably bound up in the fullest extremes of Roman law.⁸⁰ Even with these existing precedents, those familiar with Valens and Valentinian's earlier legislation may have expected Valens to be more receptive to those appealing their charges.

Upon assuming the imperial purple, Valens and Valentinian had positioned themselves as zealous defenders of the privileges of rank, repeatedly weighing in through their legislation on issues of concern to propertied landowners, *honorati*, and veterans, as well as reasserting the rights of the senatorial classes in Rome.⁸¹ The two had also legislated against provincial maladministration and administrative corruption, restricting administrative usury and monetary gains, mandating greater transparency in judicial decision making, and decrying favoritism and collusion among governors and their staffs.⁸² For those who had taken these provisions as a faithful representation of Valens's legislative priorities, his seeming disinterest in guarding the prerogatives of the elite against the perceived abuses of his imperial administrators in the Antiochene trials might well have seemed an egregious breach of established precedent, no matter the technicalities of the law. In earlier legislation, the two had also encouraged their consultation on most criminal cases, unless their physical distance prohibited a timely response or if an individual was accused of *maiestas*.⁸³ Whereas Valentinian, a resident in Trier, could attempt to claim ignorance of Maximinus's actions in the contemporaneous magic and treason trials in Rome, Valens had no such excuse, making his supposed disinterest in moderating the perceived abuses and

79. CTh 9.37.2; cf. Harries, *Law and Empire*, 129.

80. Quintilian, *Declamationes minores* 307.3; Pölönen, "Plebeians and Repression of Crime," 221–25.

81. See Schmidt-Hofner, "Ostentatious Legislation," 68–70, 80–96.

82. Corruption: CTh 11.16.11 (365 CE); Usury: CTh 8.4.10 (365 CE), 8.15.3 (364 CE); Transparency and favoritism: CTh 1.16.9 (364 CE), 1.16.10 (369 CE), 1.16.12 (369 CE). Valens and Gratian continued to encourage judicial transparency after the trials: CTh 1.16.13 (377 CE). For discussion of Valens's anticorruption efforts, see Lenski, *Failure of Empire*, 272–77.

83. CTh 9.35.1 (369 CE). This provision clarified earlier legislation (CTh 9.2.2, 365 CE, and 9.40.10, 366/367 CE); see Coşkun, "Ammianus Marcellinus," 66–68, 86–87.

maladministration of his subordinates all the more damning.⁸⁴ Furthermore, the perception that the maiestas charges were too strict may have led some Antiochenes to believe that their rights to appeal were unfairly limited, even if Valens did indeed weigh in on and commute some cases, as discussed ahead.

Layered over these broader, understandable concerns, however, are a set of additional allegations made by Ammianus concerning specific procedural irregularities during the trials, including the unusual alacrity of the prosecutions and the lack of evidentiary proof against the accused. Through these allegations, Ammianus heightens the sense of terror by alleging that Valens and his administrators inflicted the worst abuses of provincial maladministration on Antioch while also stripping Antiochenes of their primary mode of redress: the law. Like other provincial communities, Antiochenes were highly attentive to their statutory privileges and used their legal agency and knowledge of local precedents to constrain the power of governors and local magistrates.⁸⁵ As such, Ammianus's allegations were likely effective in producing resentment among his later readers who relived the earlier crisis through his writings. But a closer analysis of these claims indicates that Ammianus was exaggerating the scope and severity of his purported legal irregularities as a means of discrediting Valens and undermining his relationship with the city.

Many of Ammianus's most notable allegations concern Valens and his administrators' disregard for truthful evidence and the unusual speed of the trials. According to Ammianus, caring naught for discerning "truth from falsehood," Valens and his judges accepted whispered accusations "as true and certain" and allowed these "indiscriminate" accusations of the lowborn to rob old and young "without opportunity for defense" and "without discrimination" of their goods and lives.⁸⁶ Elsewhere, Ammianus similarly

84. On Valentinian's absence from the Roman trials, see Den Boeft et al., *Philological and Historical Commentary*, 1, 43.

85. The primacy of legal remediation in settling urban-imperial disputes can be seen in Libanius's account of the Riot of the Statues fifteen years later in 387. Even as their fellow Antiochenes took to toppling statues of the imperial family, Libanius reports that Antioch's courtrooms were full to bursting, with "ex-governors, city councilors, advocates, retired military men," who tearfully sought relief from burdensome taxes imposed by Theodosius; see Libanius, *Orationes* 19.8. On the riot, Watts, *Final Pagan Generation*, 200–203; French, "Rhetoric and the Rebellion." On provincial affiliation with the law more generally, see Clifford Ando, *Imperial Ideology and Provincial Loyalty in the Roman Empire* (Berkeley: University of California Press, 2000); Bryen, "Judging Empire," 771–811; Maud W. Gleason, "Truth Contests and Talking Corpses," 287–313; Shaw, "Judicial Nightmares and Christian Memory," 533–63.

86. Ammianus, *Res gestae* 29.1.20, 29.2.1–3; cf. Zosimus, *Historia nova* 4.14.4.

reports that Valens and his henchmen punished many “without breathing-space or delay, while inquiry was being made whether they deserved punishment,” condemning others to death “before they even knew that they were under suspicion.”⁸⁷ In addition to this speed, the historian reports that Valens had a corrupting influence on the tribunal’s investigations, cowing the will of the *carnifices* (torturers) so that they tortured suspects not to reveal the truth but to assure that the testimony was “agreeable to the emperor.”⁸⁸ Likewise, imperial judges slavishly settled cases “according to the will of their master” rather than “the provisions of the law” (*praescripta . . . legum*) and allowed Valens to send the innocent to the executioner in summary judgments, as if “flocks” for the slaughter.⁸⁹

If true, Ammianus’s allegations that the accused were unable to call witnesses, present evidence, and speak in their own defense—not to mention his allegations that the tribunal used summary judgments, anonymous accusations, and coerced testimony—would have been justifiably concerning breaches of the foundational principles of Roman law.⁹⁰ Provisions mandated that those accused of criminal charges be notified in advance of their trial date by a formal summons and have sufficient time to prepare their legal defense.⁹¹ Valens and Valentinian had also reaffirmed that no one was to be sent to prison before official, formal accusation against them had been entered into the public records (*codex publicis*), which should have precluded the use of anonymous or unofficial “whispered” accusations, also banned by the two brothers.⁹² Without corroborating evidence, however, Ammianus’s descriptions of the legal particularities of the trials cannot be taken as indications of historical fact. Ammianus’s tendencies toward rhetorical distortion, holistic summation, and selective omission of the more serious and viable charges obfuscate the particulars of many cases.⁹³

87. Ammianus, *Res gestae* 29.1.18, 29.1.40.

88. Ammianus, *Res gestae* 29.1.44.

89. Ammianus, *Res gestae* 29.1.25–27. On the problem of blanket decisions in both the Roman and Antiochene trials, see Ammianus, *Res gestae* 28.1.11, 29.1.38, and Kelly, “Ammianus, Valens, and Antioch,” 158–59.

90. Harries, *Law and Empire*, 104–13, 119–21.

91. Bryn, “Martyrdom, Rhetoric, and the Politics of Procedure,” 258–59.

92. On the importance of official accusations: CTh 9.3.4 (365 CE). The two repeatedly condemned anonymous denunciations: CTh 10.10.9 (364 CE), 10.10.10 (365 CE), with at least one edict applying specifically to eastern regions under Valens’s jurisdiction, CTh 9.34.7 (365 CE); see Schmidt-Hofner, “Ostentatious Legislation,” 81–82.

93. For examples of summative coverage in the Antiochene trials, see Ammianus, *Res gestae* 29.1.25, 29.1.40, 29.2.3. Similar conclusions have been raised about Ammianus’s accounts of the Roman maiestas trials, see Coşkun, “Ammianus Marcellinus,” 83–85.

Moreover, Ammianus's allegations that the tribunal was uninterested in evidence and failed to inform the accused of their opportunity for defense directly contrast with his own and Libanius's testimony that Valens and his administration carefully vetted evidence prior to arrest or leveling charges. Libanius reports that, while Valens and imperial agents rigorously questioned Irenaeus concerning the orator's possible involvement in the conspiracy, Irenaeus's denials and the lack of evidence successfully dissuaded the commission from pressing charges against him.⁹⁴ Ammianus similarly notes that Eutropius was pardoned due to lack of evidence after the soothsayer Pasiophilus refused to implicate him when interrogated under the *quaestio*.⁹⁵ Charges and fines leveled against the brothers Eusebius and Hypatius were also dropped when witness interviews and interrogations fail to achieve a confession.⁹⁶ The intimation that charges would have been filed in these three cases, if sufficient evidence had been found, indicate that the tribunal took pains to vet the strength of the evidence before leveling charges. Elsewhere, Ammianus also explicitly references Valens's issuance of *elogia*, on which charges and sentences were pronounced. Ammianus blames these "warrants of the father of the people" (*elogia parentis publici*) for bringing many to grief, but the very mention of their existence suggests that defendants were notified in advance of the charges and sentences before punishment.⁹⁷ That advance notice was given also aligns with Libanius's report that Irenaeus orchestrated his own death after preliminary interviews indicated he was under suspicion but before he was officially arrested and subjected to the *quaestio*.

Ammianus's complaints about the unusual alacrity of the trials also hide a more nuanced reality. The need to identify and neutralize conspirators before duties next called Valens away from the city likely encouraged the tribunal to process cases as speedily as possible. Indeed, compared to the prolonged five-year long investigations in Rome, the Antiochene trials' swift resolution within the span of a single year indicates a coordinated and effective imperial response. The alacrity of the Antiochene trials, however, was also encouraged by Constantinian-era provisions demanding the speedy

94. Libanius, *Orationes* 1.172–174.

95. Ammianus, *Res gestae* 29.1.36.

96. Ammianus, *Res gestae* 29.2.9–11.

97. Ammianus, *Res gestae* 29.2.7. On *elogia*, see John C. Rolfe, trans., *Ammianus Marcellinus: History, Books 14–19*, vol. 1, Loeb Classical Library 300 (Cambridge, MA: Harvard University Press, 1950), 3113.

commencement of criminal cases and urging trials to begin “immediately” (*statim*) once the accused was produced in court.⁹⁸ Contemporary accounts also frequently complain about prolonged delays in prison while awaiting trial, so the trials’ rapidity may have conversely been a sign of good governance.⁹⁹ Despite the apparent speed of the trials, Ammianus further indicates that Valens personally vetted information, at least concerning the initial conspirators, suggesting that the ruler was consulted on the cases and had the opportunity to review the tribunal’s findings before confirming judgment of the accused as required.¹⁰⁰

Even so, Valens’s residency in the city during the investigations may have contributed to the perception that petitions and judgments were hurried and cursory. Without the delays of travel as imperial petitions were dispatched to and from the Empire’s more distant reaches, Valens’s responses likely progressed more swiftly than Antiochenes were accustomed. Following the Riot of the Statues in 387, for example, Libanius notes that prisoners were able to lounge about in gardens and play dice games while their petitions were sent and considered by Theodosius. Reportedly, the period of incarceration was long enough to consider moving them to better abodes.¹⁰¹ Though the Riot of the Statues postdates the trials under Valens, their leisurely pace illustrates the delays that may have colored Antiochene experiences with imperial petitions to more distant emperors.

Substantial doubts can also be leveled at Ammianus’s allegations that imperial agents were deliberately planting false evidence in the homes of the accused. The speed and corruption of the trials was so profound, he claims, that wives were not allowed time “to weep over the misfortunes of their husbands” before imperial agents were sent “without delay” to the homes of the accused. There, under the guise of inventorying the belongings of the accused, imperial agents secretly planted incriminating evidence including “old-wives’ incantations and salacious love-potions . . . as contrivances for

98. CTh 9.3.1.pr (320 CE).

99. Libanius, *Orationes* 21.10; Sofia Torallas Tovar, “Violence in the Process of Arrest and Imprisonment in Late Antique Egypt,” in *Violence in Late Antiquity: Perceptions and Practices*, ed. H. A. Drake (Burlington: Ashgate, 2006), 103–12 at 105–7. Theodosius later established measures to limit the duration of incarceration and to clarify scheduled dates of trials, CTh 9.3.6 = Codex Justinianus (hereafter CJ) 9.4.5 (380 CE); cf. Hillner, *Prison, Punishment and Penance*, 123.

100. Ammianus, *Res gestae* 29.1.38. Valens’s perusal of the minutes and documentation of the trial was required per CTh 11.30.35 (369/370), cf. Den Boeft et al., *Philological and Historical Commentary*, 62.

101. Libanius, *Orationes* 22.15–16, 22.26, 22.29–31.

the ruin of innocent people.”¹⁰² According to Ammianus, when this fabricated evidence was “read out in court,” many were “carried off in litters to execution.”¹⁰³ As numerous imperial petitions and rescripts attest, Roman soldiers, *agentes*, and administrators were capable of violent acts and unlawful requisitions, even without the heightened strain of the trials and the possibility of armed insurrection and attempts on the emperor’s life.¹⁰⁴

Imperial agents were often tasked with gathering evidence, however, and it was common practice for the estates of those convicted of treason to be inventoried before being transferred to the imperial fisc.¹⁰⁵ Constantius II required documentation of the house and its contents to be submitted to the office of the procurator.¹⁰⁶ Valens and Valentinian made the inventorying process more transparent, mandating that the governor’s office publicly submit written documentation of the inventory to a judge. Speed and accuracy were encouraged in the process, since the subsequent discovery of mistakes or deliberate fraud on the part of the imperial agents were punishable by fines or even death.¹⁰⁷ Isolated incidents of misconduct were possible, of course, but severe penalties make the prospect of widespread fraud and falsification of evidence by imperial agents less plausible.¹⁰⁸ Instead, Ammianus seems to have deliberately conflated the investigatory stage of the trials in which incriminating evidence could be taken from private homes with the inventory stage that was completed after conviction. This conflation and the resulting accusation that agents introduced incriminating objects into homes allowed

102. Ammianus, *Res gestae* 29.2.3: *immittebantur confestim, qui signatis domibus inter scrutinia suppellectilis poenis addicti, incantamenta quaedam anilia vel ludibriosa subderent amatoria ad insontium perniciem concinnata* (Seyfarth, *Ammiani Marcellini*, 104).

103. Ammianus, *Res gestae* 29.2.3–4. Arresting officers were often expected to testify; see Fuhrmann, *Policing the Roman Empire*, 71.

104. On the misdeeds of Roman soldiery, see Peter Herrmann, *Hilferufe aus römischen Provinzen: ein Aspekt der Krise des römischen Reiches im 3. Jhdt. N. Chr.* (Hamburg: Joachim Jungius-Gesellschaft der Wissenschaften/Vandenhoeck & Ruprecht, 1990); Tor Hauken, *Petition and Response: An Epigraphic Study of Petitions to Roman Emperors, 181–249* (Bergen: Norwegian Institute at Athens, 1998); more recently, Gary Reger, “A Letter of Septimius Severus to the Lykian League on the Misbehavior of Soldiers: A New Inscription from Choma (Hacımusalar Höyük), Northern Lykia,” *Chiron* 50 (2021): 253–86.

105. On the procedural sealing of homes, see Den Boeft et al., *Philological and Historical Commentary*, 77.

106. CTh 9.42.3 (357 CE).

107. CTh 9.42.7 (369 CE) = CJ 9.49.7. Julian also established punishments for those who concealed or stole property to be deposited within the imperial fisc; CTh 9.42.5 (362 CE).

108. On penalties for judicial corruption, see Harries, *Law and Empire*, 112–13, 161–67, and Bryen, “Martyrdom, Rhetoric, and the Politics of Procedure,” 246–48.

Ammianus to sharpen his defense that the accused were falsely condemned and obscure the fact that the accused had been in possession of illicit substances.

Comparisons to other fourth-century authors also indicate that the historian was drawing from rote topoi of provincial maladministration when associating imperial agents with false testimony and unjust property confiscations. Policing intrusions into private homes were often associated with resentment and fears of government overreach,¹⁰⁹ and false accusations and general disrepute had already become synonymous with the imperial agents known in the third century as *frumentarii* and in the fourth century as the more ambiguous *agentes in rebus*. Entrusted with a broad set of surveillance and communications duties, these *agentes* were empowered to investigate and gather evidence on activities that might be considered treasonous, making them particularly skilled for the investigatory work demanded by the trials.¹¹⁰ Aurelius Victor testifies to their unsavory reputation, alleging that the *frumentarii*, “by outrageously fabricating charges and inspiring fear everywhere, especially in all the most remote areas, shamefully plunder everything.”¹¹¹

Ammianus similarly criticizes these agents for their lack of compunction when informing on the innocent along with the guilty during the reign of Constantius II. Ammianus reports that, in Aquitaine, an *agens* reported that his host’s tablecloths featured purple borders wide enough to be used in the creation of an imperial robe. Taking the tablecloths as sufficient proof that his host had intentions of staging a coup, the *agens* brought about the swift execution of the entire family.¹¹² The frequency of such complaints does indicate endemic problems concerning provincial perceptions of the latitude granted to imperial *agentes*, but the close association of imperial intelligence agents with falsehoods in Victor and in the reigns of other maligned rulers in the *Res gestae* suggests that Ammianus was merely drawing on stock

109. Fuhrmann, *Policing the Roman Empire*, 184.

110. On the evolution and duties of these intelligence forces, see Sinnigen, “Two Branches of the Late Roman Secret Service Spies,” 238–54; William G. Sinnigen, “The Roman Secret Service Spies,” *Classical Journal* 57, no. 2 (1961): 65–72; William G. Sinnigen, “Origins of the *Frumentarii*,” *Memoirs of the American Academy in Rome* 27 (1962): 211–24; Sheldon, *Intelligence Activities in Ancient Rome*, 220–21, 251–64, 271–78; Jill Harries, *Imperial Rome AD 284 to 363: The New Empire* (Edinburgh, Scotland: Edinburgh University Press, 2012), 140–41, 204–5.

111. Aurelius Victor, *De Caesaribus* 39.45, translation from *Aurelius Victor: De Caesaribus*, trans. H. W. Bird (Liverpool: Liverpool University Press, 1994), 45; cf. Fuhrmann, *Policing the Roman Empire*, 152–57, on the duties and reputation of these figures.

112. Ammianus, *Res gestae* 16.8.8–9; cf. Harries, *Imperial Rome*, 205.

accusations against these figures to undermine Valens's handling of the investigations rather than indicating a unique instance of imperial misconduct during the trials.

Similar attempts to assign generic markers of imperial cruelty to Valens's reign are at work in Ammianus's descriptions of Antioch's overcrowded prisons. The historian grimly recounts that the "overflowing" public dungeons and private houses "could hardly contain the throngs of prisoners, crammed together in hot and stifling crowds, the majority of whom were in chains."¹¹³ Libanius's *De victis* and legal papyri from Roman Egypt speak to the exacting conditions found in Roman prisons across the fourth century, noting the possibility of starvation, disease, extortion, and physical abuse during imprisonment.¹¹⁴ Depending on the severity of these conditions and the duration of imprisonment, it is no wonder that, as Ammianus reports, the incarcerated "dreaded their own fate and that of their neighbors." However, while conditions in Antioch's *carcer* were likely quite harsh, the recurring complaints about late antique prisons indicate that these hardships were not unique to Valens's reign and that Ammianus may have been applying common concerns about prison conditions to heighten the rhetorical terror of the occasion.¹¹⁵ For example, Ammianus's observation on the wide use of chains, if reliable, would have added to the discomfort of the imprisoned but may not have contravened existing precedent. Constantinian regulations prohibited the use of "heavy manacles" but made concessions for extended chains (*prolixiores catenas*) that allowed for a greater range of movement.¹¹⁶ Ammianus's passage leaves the nature of the fetters used against the incarcerated unclear, perhaps deliberately, in order to allow the readers' imagination to concoct the worst possible abuses of the law.

Likewise, though Ammianus and Libanius blame the crowds of the accused on Valens's paranoia or lack of mercy, the number of incarcerated

113. Ammianus, *Res gestae* 29.1.13: Cumque nec carceres publici iam distenti inclusorum catervas nec privata domicilia sustinerent constipatione vaporata confertas, quoniam vinculis maxima pars eorum attinebatur, et suam et proximi cuiusque vicem omnes horrebant (Seyfarth, *Ammiani Marcellini*, 97).

114. Libanius, *Orationes* 45; Torallas Tovar, "Violence in the Process of Arrest," 107–12; T. Niklas, "Ancient Christian Care for Prisoners: First and Second Centuries," *Acta Theologica Supplementum* 23 (2016): 49–65 at 55.

115. On the impacts of entrenched corruption and negligence on prison conditions, see Libanius, *Orationes* 33.30–31, 33.41–42, and Hillner, *Prison, Punishment and Penance*, 133–35.

116. Theodosius later banned all manacles and chains. CTh 9.3.1pr = CJ 9.4.1pr (320 CE), CTh 9.2.3 (380 CE); cf. Hillner, *Prison, Punishment and Penance*, 123.

defendants was largely prefigured by the many alleged accomplices and several earlier provisions by the two Pannonian rulers that mandated extra rigor in criminal and treasonous misconduct. In 365, Valens and Valentinian had mandated that all accused of criminal charges regardless of rank were to be placed under arrest and held in custody prior to trial.¹¹⁷ This law has been noted as a central contention of Ammianus's criticisms of Valentinian and Valens's handling of the Roman and Antiochene trials as it appears to have been more stringent than a Julianic law that allowed senatorial individuals to remain free (*vacuus sit prorsus et liber*) during investigatory stages of trials.¹¹⁸ The Julianic law would not have substantially mitigated circumstances in Antioch, however, as few of the accused were of senatorial rank, so the Pannonian brothers' shift in legislation was not primarily at fault for worsening the circumstances of the trials.

Furthermore, Ammianus's report of overflowing homes (*domicilia*) may indicate that Valens upheld permissive policies concerning incarceration during the trials, even without the legal requirements to provide alternate arrangements for those below senatorial rank. The mention of overflowing homes has been interpreted as a sign that private, domestic spaces—perhaps those normally inhabited by slaves—were converted into impromptu prison cells in order to handle the sudden influx of prisoners.¹¹⁹ Antioch's prison capacity proved inadequate following the Riot of the Statues, so the possibility that alternative arrangements were made during 372 is plausible.¹²⁰ Ammianus's insistence on the wide use of chains may also indicate attempts to secure prisoners in spaces not usually used for detention. This reading would align with Zosimus's claim that prison guards in Antioch were apprehensive that available methods of securing prisoners were insufficient and might allow some to escape.¹²¹ However, the mention of private homes may alternatively signal that Valens or the tribunal granted elite Antiochenes

117. CTh 9.2.2.

118. CTh 9.2.1 (362 CE) = CJ 12.1.8; see Coşkun, "Ammianus Marcellinus," 86–88, and Hillner, *Prison, Punishment and Penance*, 131–33.

119. Pilar Pavón Torrejón, *La cárcel y el encarcelamiento en el mundo Romano* (Madrid: Consejo Superior de Investigaciones Científicas, 2003), 214; Pilar Pavón Torrejón, "Las poenae carceris durante el siglo IV," in *Carcer II: Prison et privation de liberté dans l'Empire romain et l'Occident médiéval*, ed. C. Bertrand Dagenbach et al. (Paris: De Boccard, 2004), 111–22.

120. Libanius, *Orationes* 21.29–33. On Antioch's prison and its location adjacent to the city's *bouleuterion*, see Michel Matter, "Libanios et les prisons d'Antioche," in Bertrand-Dagenbach, *Carcer II*, 53–69, and Érica Cristhyane Morais da Silva, "Os espaços da justiça em Antioquia: o dicastério e o bouleutério," *Romanitas: revista de estudos grecolatinos* 6 (2015): 125–38.

121. Zosimus, *Historia nova* 4.14.3.

dispensation to be held under the more comfortable house arrest (*custodia libera*) or under the care of a guarantor rather than in the public *carcer*.¹²² Similar arrangements allowed elite figures to remain under house arrest during the contemporaneous trials in Rome,¹²³ so Valens and his magistrates may have made comparable moderations to mitigate the outcry from Antioch's elite.¹²⁴

Taken together, the judicial investigations, public punishments, and high-visibility policing provided Ammianus with ample opportunities to exaggerate the nature and scope of the crisis. Many of Ammianus's complaints concerning abusive and corrupt administrators under Valens are common refrains in imperial petitions and other writings of the time. But the rampant concatenation of reports of judicial corruption, harsh prison conditions, and dishonest imperial agents indicates that Ammianus made use of rote topoi of provincial maladministration to shape his invective against Valens's handling of the investigations. In contrast, the imperial judicial procedures throughout the Antiochene investigations seem much more normative than a credulous reading of Ammianus would suggest. While Valens and his administration devised decisive deterrents that alienated some Antiochenes and allowed Ammianus to exaggerate elements of the trial with topoi of imperial maladministration, the imperial tactics were not uniquely harsh but merely in line with the demands of established legal precedent.¹²⁵

3. VALENS'S DEFERENCE AND URBAN-IMPERIAL RELATIONS DURING THE TRIALS

Despite the rigor of the imperial response in Antioch, a close reading of the sources also indicates that Valens moderated his sentencing and was more deferential to Antiochene and eastern interests than Ammianus would have readers believe. Evidence of Valens's deference to Antiochene interests can be found despite Ammianus's strenuous efforts to condemn the Pannonian

122. On the distinction between these forms of imprisonment, see Hillner, *Prison, Punishment and Penance*, 119–50.

123. Ammianus, *Res gestae* 28.1.54, 28.1.47; cf. Hillner, *Prison, Punishment and Penance*, 125–27.

124. On the possibility that Euserius, the former vicar of Asia, or other Antiochenes may have been granted such dispensation, see Ammianus, *Res gestae* 29.1.10 and Den Boeft et al., *Philological and Historical Commentary*, 20.

125. Ammianus reveals a close knowledge of legal particulars throughout his writings; see Roger Pack, "Ammianus Marcellinus and the Curia of Antioch," *Classical Philology* 48, no. 2 (1953): 80–85.

ruler. Ammianus repeatedly reports that Valens was categorically uninterested in mercy or the granting of pardons, decrying “civility” (*humanitas*) as “slackness” (*tarditas*) while grieving “that the great pain of his punishments could not continue after death.”¹²⁶ Ammianus also asserts that the accused were tortured as an additional punishment before execution, suggesting austere penalties were enforced upon the convicted, but Ammianus’s penchant for exaggeration and the lack of absolute numbers leave the frequency of capital punishment to matters of conjecture.¹²⁷ Moreover, in cases where capital punishment was deemed necessary, Valens and the tribunal appear to have moderated their need for decisive punishments with deference to convention and close attention to the letter of the law.¹²⁸

A close tally of Ammianus’s accounts suggests that Valens and the tribunal reserved the more ignoble and gruesome executions of strangulation and immolation solely for those who were found guilty of direct participation in the original conspiracy. Only Theodorus and the co-conspirators are said to be strangled, and only two are said to have been consigned to the flames: the youthful philosopher Simonides, who was outspokenly critical of Valens and convicted as a co-conspirator, and a “lowborn” Diogenes, who gave testimony against potential conspirators, presumably implicating himself in the process.¹²⁹ In all other capital cases meted out in Antioch, the method of execution is either explicitly stated to be the traditional death by beheading or left undisclosed.¹³⁰ In several of these ambiguous cases, Ammianus’s references to “the slaughtering of cattle” (*pecudum . . . trucidatio*) and “flocks” (*gregatim*), which often involved beheading or the slitting of throats, point toward beheading as the primary mode of execution.¹³¹ Libanius also

126. Ammianus, *Res gestae* 29.1.19, 29.2.17: quod . . . ita saeviret infeste, ut poenarum maiores aegre ferret finiri cum morte dolores (Seyfarth, *Ammiani Marcellini*, 99, 107). On Ammianus’s comparisons of Valens’s bloodthirsty nature to that of wild beasts, see Marié, “Deux sanglants épisodes,” 354–55, and Drijvers, “Decline of Political Culture,” 89–90.

127. Ammianus, *Res gestae* 29.2.3.

128. Valentinian also balanced the need for rigorous prosecutions with deference to Rome’s senatorial members; see Coşkun, “Ammianus Marcellinus,” 70–72.

129. Ammianus, *Res gestae* 29.1.38, 29.1.44. On Theodorus’s execution, see also John Chrysostom, *Ad viduam juniorem Tractatus II* 4 (Migne, *Joannis Chrysostomi*, PG 48:604), and Socrates, *Historia ecclesiastica* 6.35, in *Socratis Scholastici, Hermiae Sozomeni: Historia Ecclesiastica*, ed. J.-P. Migne, *Patrologia Graeca* 67 (Paris, 1864), 504–5.

130. The philosopher Maximus is beheaded in his hometown of Ephesus; Ammianus, *Res gestae* 29.1.42, cf. Eunapius, *Vitae sophistarum* 7.6.6–7 and Den Boeft et al., *Philological and Historical Commentary*, 69. For undisclosed numbers and methods: Ammianus, *Res gestae* 29.1.25, 29.1.38, 29.1.40, 29.1.43, 29.2.3.

131. E.g., Ammianus, *Res gestae* 29.1.25, 29.1.40.

presumes he would have been beheaded had he been implicated in the plot, suggesting that Valens was not devising particularly wayward punishments for the convicted.¹³²

Furthermore, Ammianus begrudgingly admits in several instances that Valens and his judges made liberal use of financial penalties or exile, sometimes commuting life sentences to these more lenient penalties.¹³³ Ammianus does his utmost to undermine the clemency of such actions, repeatedly lamenting the “rich patrimonies” (*opimum patrimonium*) stripped from Antioch’s noble and esteemed families, who now found themselves “begging for their food” and “worn out by abject poverty” while the imperial fisc prospered and their lowborn accusers grew rich on imperial bribes.¹³⁴ The loss of familial patrimonies did pose a threat to the financial well-being of Antioch’s curial class and city as a whole. Shifts in imperial tax policy placed an increasingly large burden on Antioch’s curial class over the course of the fourth century, leading many Antiochenes to seek exemptions from curial duties and the boule to guard against financial losses from taxes and levies on landholdings.¹³⁵ The confiscation of estates during the trials had the potential to undermine the city’s financial footing further, an outcome that surely spurred Ammianus’s disdain for these penalties and exacerbated the economic anxieties of Antioch’s curial class, which Ammianus hoped to evoke in his recollections.

Despite the hardships they imposed, the use of financial penalties by Valens and his administration signal their intent to uphold the letter of the law. Extant provisions decreed loss of property and exile for those of higher class found to be in possession of or knowledgeable about magical practices, while those of lower class were to be executed.¹³⁶ The prevalence of these financial punishments over capital punishments, then, also indicates Valens’s

132. Libanius, *Orationes* 1.173. Several of the executions Ammianus deems most excessive occur not in Antioch but in the surrounding areas overseen by the proconsul Festus; see Ammianus, *Res gestae* 29.2.21–28.

133. Ammianus, *Res gestae* 29.1.21, 29.1.44, 29.2.10–11.

134. Ammianus, *Res gestae* 29.1.43, 29.1.21: ut damnati cibo precario victitant angustiiis formidandae paupertatis attriti (Seyfarth, *Ammiani Marcellini*, 99). Zosimus similarly alleges Valens and his informers targeted innocent figures to enrich the imperial treasury; Zosimus, *Historia nova* 4.14.4.

135. On the shifting tax burdens in the late empire and oppressive taxation as an attribute of bad emperors, see Hartmut Ziche, “Making Late Roman Taxpayers Pay: Imperial Government Strategies and Practice,” in *Violence in Late Antiquity: Perceptions and Practices*, ed. H. A. Drake (Burlington: Ashgate, 2006), 127–36.

136. Paulus, *Sententiae* 5.23.18, which was confirmed by Constantine in CTh 1.4.2 (328 CE); cf. Rohmann, *Christianity, Book-Burning and Censorship*, 26.

deference to the elevated rank of the Antiochene accused. Even so, Ammianus insists that the majority of those penalized were “innocent” (*insontes*) and that Valens concealed greater severity under this “guise of mercy” (*clementiae specie*). Though he himself deems the “excess” of these actions “harmful” (*nimietas . . . odiosa*), the historian admits that others found these moderated sentences “justified” (*recta*).¹³⁷ Ammianus’s reluctant indication that some Antiochenes found Valens’s punishments “justified” reveals that Valens had local support for his measures.

In at least one case, Ammianus admits that the successful lobbying of prominent eastern families led Valens to commute a life sentence to a financial penalty. Ammianus reports that the notarius Bassianus, “one of a most illustrious family,” was spared the executioner but “stripped of his rich patrimony” after being accused “of trying to gain foreknowledge of higher power” through divination.¹³⁸ According to the historian, Bassianus’s reprieve resulted from “the urgent efforts of his kinsfolk by whom he was defended.” Ammianus contrasts this harsh financial penalty with the harmless nature of Bassianus’s offense, stating that the notarius had merely confessed to using divination to determine the gender of his unborn child. As elsewhere, the historian seems to have obscured the full spectrum of charges leveled against the notarius to paint Valens in a more negative light. Bassianus’s family had extensive connections to the eastern administration, particularly to Constantinople, where his father and father-in-law had served as Praetorian prefect of the east and where Theodorus, the would-be usurper, had been apprehended.¹³⁹ Bassianus’s family also owned estates in Phoenice and Euphratensis, which provided them with significant financial capital that might have financed rival claimants to the throne.¹⁴⁰

These political connections and wealth, in addition to Bassianus’s own career as a notarius, may have heightened suspicions that he was colluding with the conspirators who boasted similar pedigrees and stations within the eastern administration. Such suspicions would explain the extra scrutiny leveled upon Bassianus and his use of divination, since divinatory practices

137. Ammianus, *Res gestae* 29.1.22.

138. Ammianus, *Res gestae* 29.2.5; *PLRE* 1, Bassianus 2.

139. His father was Thalassius (*PLRE* 1, Thalassius 1), and his father-in-law was Helpidius (*PLRE* 1, Helpidius 4).

140. For more on his familial connections and estates, see Den Boeft et al., *Philological and Historical Commentary*, 81.

had spurred the original conspiracy's claims of legitimacy.¹⁴¹ These graver charges would better contextualize Bassianus's initial capital sentence and the political calculation behind Valens's decision to act on the intervention staged by the notarius's family. It is possible that the tribunal had insufficient evidence to convict Bassianus for treason, as Ammianus intimates, but the commutation of Bassianus's sentence may have had less to do with the bureaucrat's innocence and more to do with the emperor's unwillingness to antagonize an influential eastern family with significant social, political, and financial capital at their disposal. Commuting Bassianus's life sentence to a financial penalty allowed Valens to avoid escalating tensions with an influential eastern family, while forestalling the notarius and his family from championing Valens's next rival financially should one arise. This delicate balancing act reveals that Valens was attentive to the political climate and saw deferring to eastern interests, even out of political expediency, as a viable means of mitigating the crisis at hand.¹⁴²

Similar attempts to obscure Valens's efforts to maintain a constructive urban-imperial relationship during the trials can be detected in Ammianus's account of Alypius and his son Hierocles, who had studied under Libanius in the eastern metropolis.¹⁴³ According to Ammianus, both were accused of *veneficium*. Whereas Alypius "was condemned to exile, after the confiscation of his goods," Ammianus reports that Hierocles was condemned to death and "was already being led to a wretched death, but by a lucky chance was reprieved."¹⁴⁴ Though Ammianus omits any details of this "lucky" reprieve, the circumstances of Hierocles's pardon can be found in Chrysostom's third homily, *De incomprehensibili Dei natura*, delivered in Antioch in 386. In the homily, Chrysostom reminds his congregants of their remarkable actions during a public protest in the decade prior:

141. Hermann Funke, "Majestäts- und Magieprozesse bei Ammianus Marcellinus," *Journal of the British Archaeological Association* 10 (1967): 145–75 at 166, suspects that Ammianus may have concocted the story of concern over the child's gender to conceal Bassianus's attempt to use divination to investigate opportunities for political advancement.

142. Similar pressures may have shaped Valens's decision to pardon the brothers and former consuls Eusebius and Hypatius, who reportedly lived in Antioch after the trials; see my note 23. As in Bassianus's case, Ammianus attributes their reinstatement to a lack of evidence, but their former positions, Antiochene connections, and familial relations to Constantius II signal that their connections and prestige may have played a role in their reprieves; Ammianus, *Res gestae* 29.2.9–11.

143. Libanius, *Epistulae* 324, 1395.

144. Ammianus, *Res gestae* 29.1.44.

For in the decade hence, some men were arrested for attempting to seize the imperial power, as you all remember. One of them—a man in a position of power—was found guilty of the charge. He was gagged and was being led to his execution. Then the entire city hurried to the hippodrome, with some of those involved forcing others from their places of business, and the entire populace, rising up together, snatched the condemned from the emperor’s wrath, even though the man deserved no pardon. And thus, wishing to placate the wrath of an earthly emperor, you all ran together with your children and wives.¹⁴⁵

Admittedly, Chrysostom’s dating of the events to “ten years prior” (Πρό γάρ δέκα τούτων ἐτῶν) would suggest a date closer to 376, several years after the trials of 372. But the lack of notable treason accusations coinciding with imperial visits during the latter half of the decade complicate this literal dating.

Ammianus describes “quarrels and riots” breaking out among the common people in Antioch in the later portion of Valens’s reign, which might align better with a late dating of 376.¹⁴⁶ According to Ammianus, however, these later rioters were upset with unspecified “wrongs” committed under Valens and threatened to commit arson against the baths built by the Pannonian ruler. No mention of treason or the hippodrome is made. These disparities suggest that Chrysostom’s account of the protest is best situated as a separate occasion within the *maiestas* trials under Valens in 372. The individual’s sudden reprieve at the time of death, when he was already bound and on his way to the executioner, and Chrysostom’s description of the pardoned man also bear a remarkable resemblance to Ammianus’s description of the fate of Hierocles. The similar circumstances and the recognition that Hierocles, as son of a former *vicarius*, would have been considered, as Chrysostom decrees,

145. John Chrysostom, *De incomprehensibili Dei natura* 3.7 (Migne, *Joannis Chrysostomi*, PG 48:726): Πρὸ γάρ δέκα τούτων ἐτῶν ἐάλωσαν ἐπὶ τυραννίδι τινὲς, καθάπερ καὶ ἡμεῖς ἴστε. Εἴτα τῶν ἐν δυναστείᾳ τις ὄντων ὑπεύθυνος τοῖς ἐγκλήμασι φανεῖς σπαρτίον ἐπὶ τοῦ στόματος λαθῶν ἐξήγετο τὴν ἐπὶ θάνατον ὁδόν. Τότε δὴ πᾶσα ἡ πόλις ἐπὶ τὸν ἵπποδρομον ἔτρεχε καὶ τοὺς ἐκ τῶν ἐργαστηρίων ἐξήγον καὶ κοινῇ πᾶς ὁ δῆμος ἀνελθὼν ἐξήρπασε τῆς βασιλικῆς ὀργῆς τὸν καταδικασθέντα, καὶ οὐδεμίᾳ ἀξίον ὄντα συγγνώμης. Εἴτα βασιλέως μὲν ὀργῆν ἐπιγείου καταλῦσαι βουλόμενοι, μετὰ παιδῶν καὶ γυναικῶν συντρέχετε πάντες. Translations of Chrysostom’s *De incomprehensibili Dei natura* are adapted from Paul W. Hawkins, *St. John Chrysostom on the Incomprehensible Nature of God* (Washington, DC: Catholic University of America, 1984), 112–13.

146. Ammianus, *Res gestae* 31.1.2. Liebeschuetz, *Antioch*, 128, dates the riots described by Ammianus to 375 CE.

“one of considerable influence” have led several to identify Chrysostom’s protest with Hierocles’s pardon during the trials.¹⁴⁷

So, what can Chrysostom’s account reveal about Valens’s relations with the Antiochene populace during the trials? Chrysostom’s application of rhetorical topoi and use of the protest as a didactic analogy for the power of unified Christian prayer suggest that we must tread carefully. Like many literary descriptions of public riots, Chrysostom’s singular and brief account obscures central details about the nature of the protest and the number of participants.¹⁴⁸ Chrysostom frames the protest as the collective action of the entire populace, unified by its intent to spare the condemned and progress through the city in a spontaneous, if largely peaceful fashion. By Chrysostom’s own admission, however, the demonstration began with a smaller subset of protesters and then rapidly grew in size as the initial participants “compelled others from their places of business.” The speed with which the protest unfolded and Chrysostom’s allusion to the use of compulsion hints at a more chaotic and tumultuous throng that swept up neighbors and workers before them in the popular commotion.¹⁴⁹ These telling details suggest that the homilist may have occluded aggressive or subversive elements of a disorderly riot, so that the protest was a stronger didactic analogy for the bargaining power of the Christian faithful.¹⁵⁰ The omission of overt violence and Chrysostom’s note that women and children participated in the protest may indicate that this demonstration avoided escalating to the violent destruction seen fifteen years later in the Riot of the Statues, but his account leaves open

147. On the identification, see Den Boeft et al., *Philological and Historical Commentary*, 72, with accompanying bibliography and Lenski, *Failure of Empire*, 225n83.

148. On literary conventions concerning rioting, see Kelly, “Riot Control,” 151–57.

149. The mention of a smaller subset of initial protesters may signal that the protest was a calculated move, triggered in advance by associates of the condemned who hoped to avert the execution. On the debated role of theatrical claque in instigating public disturbances such as this one, see French, “Rhetoric and the Rebellion,” 468–69, and Robert Browning, “The Riot of A.D. 387 in Antioch: The Role of the Theatrical Claque in the Later Empire,” *Journal of Roman Studies* 42 (1952): 13–20. However, group dynamics and crowd psychology can also explain the spontaneous escalation of this and other public protests, even without purposeful triggers; see Garrett Fagan, *The Lure of the Arena: Social Psychology and the Crowd at the Roman Games* (Cambridge: Cambridge University Press, 2011), 81–95.

150. Chrysostom similarly expounds on the power of collective lamentation following the Riot of the Statues; see Jan R. Stenger, “Staging Laughter and Tears: Libanius, Chrysostom and the Riot of the Statues,” in *Greek Laughter and Tears: Antiquity and After*, ed. Margaret Alexiou and Douglas Cairns (Edinburgh: Edinburgh University Press, 2017), 166–86 at 177–85.

the possibility of a wide range of disorderly and disruptive actions spurred on by local frustrations with Valens's handling of the investigations.¹⁵¹

There are also reasons to suspect that Chrysostom obscured the motivations of the protesters. Though Chrysostom highlights the crowd's successful efforts to spare the accused, it is less apparent that this outcome was the protesters' primary agenda. Chrysostom's declaration that the criminal "deserved no pardon" suggests that subsets of the public may not have seen the individual's innocence as a point of contention.¹⁵² According to Chrysostom, the primary motivation spurring the protesters and their families to the hippodrome was instead the wish to "placate the wrath of [their] earthly emperor." While a *topos* found in other accounts of public protests, this generic goal of mollifying Valens's "wrath" suggests the protesters were linked by a broader set of appeals meant to deescalate the investigations and tactics at use throughout the city. If the riot was spurred by popular agitation against the heightened police presence throughout the city, such an origin would confirm the anxious unease that Ammianus states had settled on the city and support Chrysostom's accounts of a populace chafing under the austere imperial policing measures. The frequent use of protests by urban populations in the Roman East, however, complicates attempts to assess whether popular discontentment with Valens's policies in Antioch was uniquely severe at the time.¹⁵³

The citizens of Antioch, like many of their eastern urban neighbors, often appealed to the communicative opportunities of public spectacle to confront local, regional, or imperial officials about recent policy decisions or the constraints placed on them.¹⁵⁴ Most recently, they had used such a strategy to

151. Libanius, *Orationes* 19.25–33.

152. Chrysostom's blatant condemnation of the accused may also have been designed to provide a better analogy with the sinners and demoniacs that he subsequently appeals to his congregation to save; John Chrysostom, *De incomprehensibili Dei natura* 3.7 (Migne, *Joannis Chrysostomi*, PG 48:726).

153. Alan Cameron, *Circus Factions: Blues and Greens at Rome and Byzantium* (Oxford: Oxford University Press, 1976), 157–90.

154. The confrontation in the theater followed an earlier demonstration in the circus; see Libanius, *Orationes* 18.195 and Cameron, *Circus Factions*, 164. Pity for the accused also leads Antiochenes to beseech the governor for a pardon and a lessening of his anger in the decades prior to the trials; see Libanius, *Orationes* 11.155–156. The city would again turn to public disturbances during the Riot of the Statues of 387, and several riots documented in Antioch in the early sixth century led to violence and banishment of those involved; see John Malalas, *Chronographia* 396–98 and 448–49, cf. David Alan Parnell, "Spectacle and Sport in Constantinople in the Sixth Century CE," in *A Companion to Sport and Spectacle in Greek and Roman Antiquity*, ed. Paul Christesen and Donald G. Kyle (Malden: Wiley Blackwell, 2014), 713–36 at 714–18.

lodge their grievances at Julian's handling of the food scarcity during the ruler's visit to the theater, albeit with drastically different outcomes. In that instance, the people's insults and complaints led Julian to pen a spirited retort and refuse subsequent trips to the city.¹⁵⁵ In this case, we are not privy to the details of the crowd's vocalizations or Valens's initial reaction, but it is clear that the participants converged at the hippodrome where the emperor, presumably Valens, was present.¹⁵⁶ Once present in the hippodrome, the crowd may have directly demanded the release of the accused, or Valens and his officials may have offered up the exoneration as a measure to galvanize disparate demands into a tangible concession that could be immediately enacted. In any case, it is clear that Valens responded to the cries of the crowd by pardoning the accused and that Chrysostom viewed the pardon as a successful intervention lodged by the city against Valens's "wrath."¹⁵⁷

Despite the seemingly limited nature of this concession, the significance of this public exchange should not be overlooked. The evidence that the Antiochene populace successfully staged such a public intervention during the trials—and that Valens aimed to assuage the concerns of the Antiochene populace—radically reframes the dynamics between Valens and the Antiochenes throughout the trials. From the Antiochene perspective, the protest represents a remarkable act of public defiance and agency at odds with Ammianus's depiction of an urban population, "drenched . . . with grief and tears" and "creeping about in Cimmerian darkness."¹⁵⁸ The protest was perhaps less official than the senatorial embassy sent to petition Valentinian during the contemporaneous trials in Rome and achieved more limited outcomes than the petitions sent to Theodosius following the Riot of the Statues in 387.¹⁵⁹ Nevertheless, this exchange constitutes proof that Antioch's

155. On the breakdown in communication between Julian and Antioch, see Lieve Van Hoof and Peter Van Nuffelen, "Monarchy and Mass Communication: Antioch A.D. 362/363 Revisited," *Journal of Roman Studies* 101 (2011): 166–84 at 177–78, and Maud W. Gleason, "Festive Satire: Julian's Misopogon and the New Year at Antioch," *Journal of Roman Studies* 76 (1986): 106–19.

156. Antioch was one of a handful of eastern cities to possess a monumentalized circus; see Cameron, *Circus Factions*, 181–83, and Hazel Dodge, "Venues for Spectacle and Sport (Other Than Amphitheaters) in the Roman World," in Christesen and Kyle, *Companion to Sport and Spectacle*, 635–52 at 636–39.

157. On the use of provocateurs to shape the response of the crowd, see Cameron, *Circus Factions*, 172–73.

158. Ammianus, *Res gestae* 29.2.1, 29.2.4.

159. On the Roman senatorial embassy and the concessions granted by Valentinian, see Ammianus, *Res gestae* 28.1.24–25 and Coşkun, "Ammianus Marcellinus," 69–72.

residents were able to mount effective responses and mobilize public opinion to shape Valens's policies in ways that Ammianus denies was possible.

Moreover, the city's ability to petition Valens successfully for a full exoneration also undermines Ammianus's central contention that Valens was categorically uninterested in mercy. Ammianus recalls only one full pardon granted to the tribune Numerius, who confessed to cutting an unborn fetus from a woman's womb to commune with the dead. Ammianus discredits this pardon as an instance of Valens's cronyism and hypocrisy, but Hierocles's pardon and the commutation of Bassianus's capital charge refute Ammianus's claims.¹⁶⁰ Clearly, the frequency of full pardons in 372 fell far short of the level expected by Ammianus and appear to have been far less common than those following Procopius's rebellion, when Valens left many of the usurper's supporters and legions unscathed.¹⁶¹ After these earlier acts of clemency proved insufficient to deter repeated acts of sedition by the eastern elite, Valens and his imperial adjudicators may have been disinclined to grant such blanket clemency again, which perhaps explains his preference for the moderated financial penalties or exile discussed previously.¹⁶² The infrequency of full pardons, however, further demonstrates the considerable influence the Antiochene protesters held over their resident ruler and their ability to protect their own, as the pardon spared a youth who had studied in the city.

This exchange also provides further evidence of Ammianus's larger strategy of obfuscation concerning Valens's rapport with his imperial residence. Even if Valens pardoned the accused out of political expediency or in hopes of averting violence, as seems likely, the pardon signaled his willingness to make a tangible concession to the Antiochene public. Plus, by responding favorably to the crowd, ignoring any insults that may have arisen, and avoiding the use of force, Valens's appeasement of the Antiochene crowd upheld all the expectations for benevolent rulers confronted by contentious protesters.¹⁶³ Libanius encouraged Theodosius to take a similar stance following the

160. Ammianus, *Res gestae* 29.2.17.

161. On Valens's measured reactions to Procopius's rebellion, see Lenski, *Failure of Empire*, III–14, 212, and Hartmut Leppin, "Coping with the Tyrant's Faction: Civil-War Amnesties and Christian Discourses in the Fourth Century AD," in *Contested Monarchy: Integrating the Roman Empire in the Fourth Century AD*, ed. J. Wienand (Oxford: Oxford University Press, 2015), 198–214, esp. 203–7.

162. Public perception of the limited pardons in 372 may have further suffered in retrospect when compared to the nearly blanket pardon that Theodosius granted following the riot of 387 CE; see Watts, *Final Pagan Generation*, 200–201.

riot that broke out in the city fifteen years later,¹⁶⁴ and Valens's favorable reaction to the crowd was markedly better than Julian's encounters with the city in the preceding decade. Even Ammianus had to admit that Julian's treatment of Antioch following the demonstrations in 363 was couched in recalcitrant anger, which led him to insult the city "more than was justified" and ignore the city advisors who warned that his price controls would exacerbate rather than resolve problems of food scarcity.¹⁶⁵ The desire to forego a comparison that would reflect unfavorably on Julian undoubtedly shaped Ammianus's reticence concerning the Hierocles's "lucky reprieve."¹⁶⁶

Valens's receptivity to the Antiochene crowd also starkly contrasts with his reactions to popular demonstrations in other eastern cities, marking his deference to new imperial residence. According to Socrates, Valens punished the residents of Chalcedon in 366 by dismantling its city wall after citizens on the edifice lobbed insults his way, and riots staged in Constantinople's hippodrome in 376/78 led him to promise rampant destruction upon his return from his ill-fated Gothic campaign.¹⁶⁷ Considering that Antioch was under suspicion of harboring insurrectionists and nefarious magical practitioners, we might assume that an unruly Antiochene crowd would provoke a similarly harsh reaction from the Pannonian ruler. On the contrary, Valens's permissive concessions to Antioch—even in the heightened atmosphere of the trials—are an indication of Valens's remarkable efforts to maintain a constructive relationship with his *de facto* imperial capital.

Even the decision to host public spectacles in Antioch during the year of the trials reveals Valens's intent to maintain normalized relations with the city. The prospect that Valens would continue to host games in the

163. Good rulers were expected to respond with clemency and moderation; see Van Hoof and Van Nuffelen, "Monarchy and Mass Communication," 171–72; Fergus Millar, *The Emperor in the Roman World (31 BC–AD 337)* (London: Duckworth, 1992), 368–75; Kelly, "Riot Control," 160–67, 172. Emperors who dismissed petitions of the crowd or responded unfavorably risked contempt and violence, see Cameron, *Circus Factions*, 166, 278–79. On Ammianus's stance that persuasive rhetoric rather than violence was the purview of just rulers, see Hélène Ménard, "Corrigere et mollire: les autorités face, à l'émeute dans le monde romain, à l'époque impériale," in *Les Régulations sociales dans l'Antiquité: Actes du colloque d'Angers, 23 et 24 mai 2003*, ed. Michel Molin (Rennes: Presses Universitaires de Rennes, 2006), 251–60.

164. Libanius, *Orationes* 19.8–13, 19.18–19, 19.24, cf. Kelly, "Riot Control," 160–61.

165. Ammianus, *Res gestae* 22.14.1–3.

166. Drijvers, "Decline of Political Culture," 92–94, asserts that the negative depiction of the Valentiniani is designed to pose a starker contrast with Julian and Theodosius. Kelly, *Allusive Historian*, 310–13, similarly detects implicit comparisons between the two rulers.

167. Socrates, *Historia ecclesiastica* 4.8.1–14, 4.85.5; Sozomen, *Historia ecclesiastica* 6.39.2–4; Zonaras, *Epitome historiarum* 13.16; cf. Lenski, *Failure of Empire*, 114.

hippodrome during the investigations might seem unexpected considering the austerity of the policing and judicial response, but Valens's *adventus* into the city indicates his appetite for ceremonial occasions that would reinforce his power to the eastern capital.¹⁶⁸ In 372, Valens and his brother also introduced legislation mandating that public spectacles be held on a regular rotation across cities in the east and west, signaling Valens's intentions to continue such events.¹⁶⁹ These recent provisions and the desire to reinforce visible signals of imperial power throughout the trials suggest that Valens persisted with public spectacles over the course of his visit in 372. That his administration would use the occasion to stage an execution during the trials also aligns with Ammianus and Chrysostom's testimony that imperial authorities conducted the majority of executions in public. The hippodrome was adjacent to the imperial residence in Antioch, which would have provided a potent backdrop for Valens and his administrators to impose imperial justice in line with their high-visibility tactics seen throughout the trials.¹⁷⁰

Hosting games throughout 371 and 372 also ensured that Valens's first extended terms of residence affirmed Antioch's privileged status and offset the challenges brought about by the heightened police presence. Following the vandalism of his statues during the Riot of the Statues in 387, Theodosius had closed Antioch's public baths, theaters, and hippodromes and stripped the city of its municipal stature.¹⁷¹ Compared to these later punitive measures, Valens's decision to allow public spectacles to continue unabated during the trials indicate his intention to maintain a permissive stance toward the city and grant it allowances befitting his imperial residence. Valens's efforts to bestow Antioch with privileges would continue over the next seven

168. Libanius, *Orationes* 1.144. On public spectacles as a place to exercise imperial power and receive acclamations of the crowd, see Van Hoof and Van Nuffelen, "Monarchy and Mass Communication," 169–70.

169. These measures were part of a multiyear campaign to restore public games and infrastructure across the empire; see CTh 6.4.19–22 and Lenski, *Failure of Empire*, 270–71. The emperor's residency in Antioch during 372 should have also coincided with the Olympic Games, which were held in the city on a four-year rotating cycle during the months of July and August. No evidence for the games between 364 to 380 exists, primarily due to Libanius's limited writings from Valens's reign, but if the games continued to be held on their four-year cycle, we should expect games to have been held both in 368 and 372. On the Antiochene games, see Liebeschuetz, *Antioch*, 136–37, and Glanville Downey, "The Olympic Games of Antioch in the Fourth Century A.D.," *Transactions and Proceedings of the American Philological Association* 70 (1939): 428–38 at 437–38.

170. On the location of the hippodrome, see Cameron, *Circus Factions*, 181–83.

171. French, "Rhetoric and the Rebellion," 468–69, 482–83; Libanius, *Orationes* 23.26, 20.7, 20.38.

years, as he aggrandized the city with a new forum, basilica, colonnades, and market during his long terms of residence from 371 to 378.¹⁷² Importantly, Chrysostom's account suggests that Valens did not wait until after the trials to begin fostering Antioch's privileged relationship but strove to ensure that Antiochenes were aware of his imperial favor throughout his residence in 372. These conclusions indicate that, despite the intimidating displays of force, Valens and his administration balanced these austere tactics with efforts to maintain the goodwill of Antiochene elites and endeavored to reinforce Antioch's status as an imperial residence throughout the trials.

4. RESIDUAL TERROR: THE TRIALS IN ANTIOCHENE MEMORY

So how then did the trials become so enmeshed with terror and judicial abuse in Antiochene memory? For some Antiochenes, memories of the trials and their traumatic events likely remained an open wound. Just as the physical scars borne by survivors took a lifetime to fade,¹⁷³ memories of their treatment at the hands of the imperial judicial apparatus undoubtedly shaped their perception of Valens's reign for decades to come.¹⁷⁴ For the accused, facing the *carnifex's* instruments, the judge's decisions, or the grip of the executioner involved overwhelming terror, domination, and pain,¹⁷⁵ and the accused did not bear the brunt of these experiences alone. Witnessing family members or peers subjected to the full brutality of the *quaestio*, the hardships of imprisonment, and the executioner was a traumatic experience for many.¹⁷⁶ Even without the confiscation of ancestral estates bemoaned by Ammianus, income lost during imprisonment or diverted to lawyer fees or bribes could place the accused and their relatives in economically precarious positions.¹⁷⁷ The perception that the investigations and the resulting deaths were largely unnecessary or contrary to legal precedent must have additionally

172. On Valens's building projects, see Malalas, *Chronographia* 13.30–31 and Lenski, *Failure of Empire*, 400, with accompanying bibliography. See Kelly, "Ammianus, Valens, and Antioch," 146–52, on Valens's movements in and out of city in the 370s. On the possibility that Valens also instituted a subsidized food ration in Antioch, see Liebeschuetz, *Antioch*, 129.

173. Ammianus, *Res gestae* 29.2.20.

174. On "the rhetoric of reprieve" in the aftermath of the Pannonian brothers' death, see Libanius, *Orationes* 1.179 and Lenski, *Failure of Empire*, 221. Marié, "Deux sanglants épisodes," 350, also posits that the horrific details were remembered even without Ammianus's recollections.

175. Shaw, "Judicial Nightmares and Christian Memory," 535–55.

176. Libanius, *Orationes* 45.15; Torallas Tovar, "Violence in the Process of Arrest," 108–10.

177. Libanius, *Orationes* 45.9; Hillner, *Prison, Punishment and Penance*, 144–47.

heightened the resentment of those who believed, as Ammianus did, that the defendants had been stripped of their due process rights.

Libanius urged Theodosius to be mindful of the Antiochenes' long memories when devising his response to the Riot of the Statues fifteen years later in 387. Recalling Diocletian's punitive treatment of the city following Eugenius's failed insurrection more than eight decades earlier, Libanius warned that still "these events linger on. They are remembered and will continued to be remembered, and no lapse of time can cause them to be forgotten."¹⁷⁸ As the accounts of Libanius, Ammianus, and Chrysostom confirm, however, Antiochenes' long memories were also highly malleable and prone to manipulation. Though these authors often paint Valens's treatment of Antiochenes as excessively cruel, his decisions sinister, and punishments inescapable, their accounts arguably reflect the imperial judicial and policing apparatus working as it was intended. Fear, pain, and domination were central to Roman law and administration of justice, and Valens and his administrators were empowered to act decisively to ensure the stability of the Roman state.¹⁷⁹ The expansive investigations, escalated police presence, and the targeted pursuit and destruction of magical texts were undoubtedly rigorous, but as this article has demonstrated many of the precautions taken by Valens and his administration had clear legal and judicial precedents and were levied with more moderation and success than the literary sources would have readers believe.

When deciding on appropriate sentences, incarceration arrangements, and disposal of magical treatises, Valens and his administration hewed closely to established legal parameters and endeavored to appease eastern interests through their use of commuted sentences and fines. Moreover, close readings of the sources indicate Valens's notable efforts to foster a constructive relationship with his eastern capital and reaffirm his favor for its residence above and beyond those in other eastern cities. Indeed, far from indicating his disdain for the city, reevaluations of the textual sources suggest that Valens targeted nefarious actors among Antioch's populace while simultaneously maintaining a far more permissive stance toward the city than other rulers in the late fourth century. He succeeded in avoiding Julian's mistakes during the food scarcity crisis of 362–63 and eschewed the blanket penalties

178. Libanius, *Orationes* 20.21, translation from *Libanius: Selected Orations*, trans. A. F. Norman, vol. 2, Loeb Classical Library 452 (Cambridge, MA: Harvard University Press, 1977), 324–25.

179. Harries, *Law and Empire*, 144–52; Hillner, *Prison, Punishment and Penance*, 143–44; Jens-Uwe Krause, *Gefangnisse im Römischen Reich* (Stuttgart: Franz Steiner Verlag, 1996), 196–98.

Theodosius placed on the city following the Riot of the Statues in 387. The enduring success of Valens's tactics is apparent in his ongoing rapport with the city, as evidenced by his long terms of residence and continued investment in the city throughout the 370s. This legacy indicates that while memories of the trials may have been couched in intimidation and suspicion for some, for others the events were a temporary nuisance that paled in comparison to the imperial privileges and economic benefits conferred by Valens's residency over the coming years.

These conclusions indicate the dangers of relying too heavily on literary interpretations of the Antiochene magic and maiestas trials and Valens's reign more generally. While literary assessments affirm Valens's incompetence, cruelty, and excessive paranoia, a broader consideration of Valens's deft handling of this particular crisis indicates the seriousness with which Valens approached his imperial duties to uphold the law, defend the stability of the empire, and maintain the respect of Antioch's citizens. This rehabilitation of Valens and his response to the Antiochene magic and maiestas trials of 372 not only reveals the potential of reevaluating notable imperial-urban crises through a legalistic framework but also indicates that Valens, much like other fourth-century rulers maligned by Ammianus, deserves more nuanced treatment in the future.¹⁸⁰ ■

180. For one such reevaluation, see Muriel Moser, *Emperor and Senators in the Reign of Constantius II: Maintaining Imperial Rule between Rome and Constantinople in the Fourth Century AD* (Cambridge: Cambridge University Press, 2018).