LIBERTY TREE

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Three "judges" eviscerate the Fourth Amendment because it no longer comports with PUBLIC POLICY.

IT'S OFFICIAL: INDIANA IS NOW A POLICE STATE

Indiana Supreme Court (L to R): Police-state tyrants Sullivan, David, Shepard, followed by dissenters Rucker, Dickson, who will now violate the *other judges' policy* should they ever resist unlawful police actions.

Editorial by Dick Greb

The Indiana Supreme Court's recent decision in *Barnes v. Indiana*[1] provides a great example of how being the judge of your own cause inevitably leads to tyranny. In that case, three black-robed liberty thieves[2] have stolen from the inhabitants of Indiana their right to be "secure in their persons, houses, papers, and effects, against unreasonable searches and seizures," as guaranteed by the Fourth Amendment to the U.S. Constitution, as well as Article 1, §11 of the Indiana Constitution. And perhaps worst of all, the treachery of these three criminals was justified by elevating "public policy" over individual rights. This in itself would be bad enough, but apparently in Indiana, it's public policy to protect government agents who strangle and tase you in their attempts to break into your home.

Here is a description of the situation taken from page 2 of the court's

(Continued on page 2)

1. http://www.in.gov/judiciary/opinions/pdf/05121101shd.pdf
2. Three out of five, a mere 60 percent; a real example of tyranny by a minority.

Down the Rabbit Hole

A COMMISSAR DOES HER JOB

"[The federal government has] erected a multitude of New Offices, and sent hither swarms of Officers to harass our people and eat out their substance. … [They have] … destroyed the lives of our people."

— the [slightly revised] Declaration of Independence

Springfield, Mo. — Once upon a time, if you wanted healthy local bunnies, the Dollarhite Rabbitry was the place to go. That was before a USDA-authorized thief, with help from her thieving 'superiors,' threatened to fine them up to $4 million for selling 619 rabbits without a federal license.

Goodbye, rabbitry. Hello, personal and economic destruction. And thank you, Framers, for those (most abused) seven words of power — "[T]o regulate Commerce … among the several States …"[1]

(Continued on page 3)

1. U.S. Constitution, Art. 1, § 8, Cl. 3.

(Continued from page 1)
decision:

> On November 18, 2007, Richard Barnes and his wife Mary argued as he was moving out of their apartment. During the argument, ... Mary called 911 from her cell phone and informed the dispatcher that Barnes was throwing things around the apartment but that he had not struck her. The 911 dispatch went out as a "domestic violence in progress." [Two policemen responded to the call, and upon arrival, saw Richard Barnes in the parking lot with a bag, and began questioning him. In the course of this questioning, **Mary Barnes] came onto the parking lot**, threw a black duffle bag in Barnes's direction, told him to take the rest of his stuff, and returned to the apartment. Reed and Henry followed Barnes back to the apartment. Mary entered the apartment, followed by **Barnes, who then turned around and blocked the doorway**. Barnes told the officers that they could not enter the apartment and denied Reed's requests to enter and investigate. Mary did not explicitly invite the officers in, but she told Barnes several times, "don't do this" and "just let them in." **Reed attempted to enter the apartment, and Barnes shoved him against the wall.** A struggle ensued, and **the officers used a choke hold and a taser to subdue and arrest Barnes**. Barnes suffered an adverse reaction to the taser and was taken to the hospital.
>
> Barnes was charged with Class A misdemeanor **battery on a police officer**, Class A misdemeanor **resisting law enforcement**, Class B misdemeanor **disorderly conduct**, and Class A misdemeanor **interference with the reporting of a crime**. (all emphases added)

Before getting into the rationalizations of the judicial terrorists, I want to point out a few things that were not addressed by this court. First, the police were responding to a "domestic violence" call made by Mary Barnes, in which she specifically stated that she had not been struck. When they arrived, Richard was already outside and while they were talking to him, Mary herself came outside too. Thus, both parties in the domestic dispute were observed outside, and if necessary, could have been questioned there as well (as they were already doing with Richard). Yet, the police apparently did not request that Mary (who reported the crime in the first place) remain outside where they could speak to her, or even to come outside after they were denied entry. Instead, they followed her husband to the apartment, perhaps expecting to be welcomed inside, but instead being prevented from entering by Richard, who "blocked the doorway."

At this point, the decision uses the euphemistic phrase "Reed attempted to enter the apartment," without any clarification as to the nature of Reed's attempt. After all, if Barnes was blocking the doorway, any attempt by Reed to enter would most likely necessitate physical contact with Barnes, which would itself be "battery," defined in Indiana law as "knowingly or intentionally touch[ing] another person in a rude, insolent, or angry manner." (See Indiana Code §35-42-2-1) When Barnes resisted this police-instigated battery against him, they used lethal methods (i.e., choking, and while tasers are supposed to be "non-lethal" weapons, they have sometimes caused the death of the victim) to subdue him.[3] It's also interesting to note that although the pretext for gaining entry into the apartment was to investigate the domestic violence report, none of the charges brought against Barnes related to any such crime; the only charges stemmed from his resistance to the illegal entry of his home.

Why the Fourth Amendment exists. The three supreme stooges of Indiana *admitted* they were breaking over 300 years of precedent that acknowledges the right to resist unlawful police action.

As mentioned above, the Indiana Supremes admitted that they were breaking with over 300 years of precedent that acknowledged the right to resist unlawful police action, and even cites two U.S. Supreme Court cases that upheld the right.[4] They simply decided it was time to drop the hammer on such an *inconvenient* right, seeing as how it interferes with their megalomaniacal quest for more power.

> We believe however that **a right to resist an unlawful police entry into a home is against public policy** and is incompatible with modern Fourth Amendment jurisprudence. Nowadays, an aggrieved arrestee has means unavailable at common law for redress against unlawful police action. *E.g., Warner, supra,* at 330 (citing the dangers of arrest at common law — indefinite detention, lack of bail, disease-infested prisons, physical torture — as reasons for recognizing the right to resist); *State v. Hobson*, 577 N.W.2d 825, 835–36 (Wis. 1998) (citing the following modern devel-

(Continued on page 4)

3. In fact, using a choke hold is itself a Class D felony. Indiana Code §35-42-2-9 makes it a crime to, "in a rude, angry, or insolent manner, knowingly or intentionally, appl[y] pressure to the throat or neck of another person … in a manner that impedes the normal breathing or the blood circulation of the other person," with the only exception being for "medical procedures."
4. *Bad Elk v. United States*, 177 U.S. 529 (1900) and *United States v. Di Re*, 332 U.S. 581, 594 (1948) ("One has an undoubted right to resist an unlawful arrest, and courts will uphold the right of resistance in proper cases.")

(Continued from page 1)

Opening the door to harassment Sometime in Fall 2009, a female USDA "inspector" showed up at John and Judy Dollarhite's home. While inspecting a petting zoo at Silver Dollar City, she had found invoices for Dollarhite Rabbitry — a small hobby cum business which netted a grand total of 200 frns that year. Without saying they "were in violation of any laws, rules, anything whatsoever," John says, she insisted on doing a "spot inspection."[2]

John and Judy were understandably "beyond surprised" that a federal bureaucrat would inspect a rabbitry which sells no bunnies across state lines, so they made a mistake. Assuming they had "nothing to hide" — and knowing in their hearts they weren't doing anything wrong — they allowed the federal busybody to look at *their* rabbits, on *their* premises, *without* a warrant.

After claiming the Dollarhites would have to replace their cages because they were one-quarter inch too small (!)[3] and finding a small rust spot, the female inspector commented that the bunnies looked healthy and well-cared for. She asked Judy to sign up for USDA certification, a voluntary process which involves monthly inspections; Judy declined. The busybody left.

What should have been the end of the story was, as we all know by now, just the opening gambit in the U.S. federales' favorite game: destroying your substance and life.

Don't need no stinkin' law A few months later, a Kansas-City based USDA "investigator" from the Animal and Plant Health Inspection "Service" (APHIS) called the Dollarhites to arrange a meeting with them "because you're selling rabbits and you've exceeded more than $500 in a year," John says. He recalls that when they and their lawyer met with the APHIS investigator, the investigator said: "I've been in the USDA for 30-plus years, and I've never lost a case. ... I'm not here to debate the law, interpret the law or discuss the law, I'm here just to do an investigation."

Rather than show his lawful authority, the APHIS bureaucrat interrogated them and wrote a report. Eight weeks later, a "superior" in D.C. told John "once I review [the report], it's our intent to prosecute you to the maximum" and "we will make an example out of you." When asked again what law the Dollarhites had broken, she said a guideline prohibits anyone from selling more than 500 frns' worth of rabbits per year, but refused to cite any specific law and said she would send the details.

Destroying the economy Meanwhile, the stress resulting from the USDA's threats caused the Dollarhites to pack up a six-year hobby and trade it off for other agricultural equipment. Missouri's economy lost a great source of well-cared for rabbits and a promising business at one blow. APHIS accomplished its mission: to harass our people and eat out their substance. For bureaucrats, it's all in a day's work; indeed, it is *all that they do*.

Destroying your life Over a year later, on April 19, 2011, officers from far-away places sent a certified "settlement offer" fining the Dollarhites a mere $90,643 for operating without a license under the Animal Welfare Act. They finally cited a *regulation*, 9 CFR § 2.1(a)(1):

> (a)(1) Any person operating or intending to operate as a dealer, exhibitor, or operator of an auction sale, except persons who are exempted from the licensing requirements under paragraph (a)(3) of this section, must have a valid license. ...

"Dealer" is defined in part at 9 CFR § 1.1 as a person who "in commerce, for compensation or profit ... buys, or sells" any rabbits for use as pets, but the term "does not include [persons] who derive no more than $500 gross income from the sale."

Laying aside whether the Dollarhites were "in commerce," it is clear from the regulation cited by the APHIS thieves that they are lying incompetents. After telling the Dollarhites repeatedly that they had exceeded a 500-frn limit for *selling* rabbits, it turns out APHIS only has jurisdiction over dealers exceeding 500 frns in *gross income* "derive[d] ... from the sale."

"Gross income" is undefined in the Agriculture code, Title 7 U.S.C., but the term occurs several times therein with reference to Title 26, the Internal Revenue Code.[4] In Title 26, § 61, "gross income" is partly defined to include "gross income derived from business." Sales receipts are not income: as 9 CFR § 1.1 states, the income must be "derived" from sales receipts. In two years of selling pet bunnies, the Dollarhites lost money the first, and had "income" of roughly 200 frns the second.

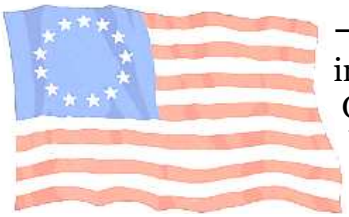
Never accountable for their misdeeds, agents of the USDA, just like those of the IRS and *all* other alphabet-soup federal cops — aren't required to actually *know* the laws upon which their entire job and authority depend. The ironic result: a hobby is destroyed by agents citing regulations showing they have no power to destroy.

'It's for the animals'... but which ones? When Missouri blogger Bob McCarty pressed the USDA regarding the obscure regulation, APHIS spokesman Dave Sacks wrote him that "animal welfare" is "at the heart of every-

(Continued on page 4)

2. For the entire story and updates, see www.bobmccarty.com
3. The Dollarhites had bought new cages designed for *large* breed rabbits to ensure their *dwarf* breed varieties had a healthy amount of space.
4. See, *e.g.*, 7 U.S.C. §§ 2014, 2020, 1926 and 1929a.

You are invited to the July 4th celebration!



— Held on *July 2nd* —

in beautiful Carroll County, Md. Our annual event features a barbecue, refreshments, and best of all, other members and serious patriots from around the country. Meat is provided; please bring beverages and a side dish, from salads to desserts, and join us. For more information, call Headquarters at (410)857-4441 ext. 100.

POLICE STATE REDUX

(Continued from page 2)

> opments: (1) bail, (2) prompt arraignment and determination of probable cause, (3) the exclusionary rule, (4) police department internal review and disciplinary procedure, and (5) civil remedies). We also find that allowing resistance unnecessarily escalates the level of violence and therefore the risk of injuries to all parties involved without preventing the arrest — as evident by the facts of this instant case. (*Barnes*, pg. 4-5.)

Notice that the "dangers of arrest at common law" cited have not been eliminated under today's 'statutory law' arrests (except for the diseases perhaps), and so those reasons for recognizing the right to resist still exist as well. On the other hand, the so-called "modern developments" of bail (not really all that modern; see the 8th Amendment), the exclusionary rule (which has been whittled away to next to nothing by a myriad of judicially created exceptions),[5] internal police reviews (hardly a scarecrow, seeing as how they RARELY, if ever, find officers guilty of any wrongdoing whatsoever), and civil remedies (against which police are often given "qualified immunity," and if not, any damages awarded are typically paid by the state) are more symbolic than practical remedies to those dangers. After all, for one of the five remedies, the vindication of your rights depends entirely on the same police department that violated them in the first place, while the other four depend on judges like the Indiana Supreme Court jesters, who've flat-out admitted that protecting the police from your resistance to their illegal actions is more important than protecting you from those illegal acts.

Notice also that the court decided "that allowing resistance unnecessarily escalates the level of violence ... *without preventing the arrest*." In other words, since the police are going to violate the law no matter what, the citizenry must simply take their abuse, in order to keep said police safe in their law breaking. But the court ignores the fact that the escalation of violence and injury is not at all unnecessary; in fact, they are important components of the deterrent to illegal police action. The same is true of the exclusionary rule and civil liability for their acts. The reason for disallowing evidence that was obtained illegally is to provide a disincentive to collecting it that way. Making the actors themselves pay the damages awarded in civil suits (rather than the state, which ultimately collects it from all of us) also provides a disincentive to violating the rights of others. In the same way, the prospect of injury to themselves, or even their death, would act as a disincentive to the police from engaging in illegal activity. When those disincentives are removed, the restraints on illegal behavior are likewise removed, which naturally results in more illegal behavior by the police.

Imagine the difference it would have made in the above scenario if officers Reed and Henry knew that Barnes could not only legally repel their invasion of his home with lethal force if necessary, but could also collect from them personally (or their estates) all damages and punitive awards for their attempt. I seriously doubt if the two would have been so gung-ho about their illegal entry into Barnes' home. Certainly, it should have given them reason to reconsider their plan. And it's not like the court doesn't recognize this concept of disincentives, since their decision is based directly on it; they just use it backwards. They provide disincentives that restrain you from *legally* resisting, while removing the disincentives restraining police from acting *illegally*. Obviously, this will increase the incidence of illegal entries, searches, seizures, arrests, and even beatings — the exact opposite of what the right to resist would do — simply because there's no downside to it. Sooner or later, the lawlessness of the police, and the government in general, will obliterate respect for the laws by the citizenry.

The conclusion one must draw from all of this is that the public policy of Indiana is to promote lawlessness, by encouraging lawless behavior by police, and discouraging lawful behavior by citizens. And there's no doubt that they will get more lawlessness from all quarters because of this decision. Justice Rucker, in his dissenting opinion in *Barnes*, recognized the implications of the decision: "In my view the majority sweeps with far too broad a brush by essentially telling Indiana citizens that government agents may now enter their homes illegally – that is, without the necessity of a warrant, consent, or exigent circumstances. And that their sole remedy is to seek refuge in the civil arena." The fact that the court is reinstating Barnes' convictions for exercising a long-recognized right, by *just now* ruling[6] that they were *no longer* going to recognize that right, amply demonstrates the 'effectiveness' we can expect of those after-the fact remedies in protecting us from a police state.

5. See, for example, the latest in the U.S. Supreme Court's own battle against our rights, *Kentucky v. King*, 563 U.S.___ (2011) (http://www.supremecourt.gov/opinions/10pdf/09-1272.pdf)
6. "Now this Court is faced for the first time with the question of whether Indiana should recognize the common-law right to reasonably resist unlawful entry by police officers." (*Barnes*, p. 3.)

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thing" the agency does, so it is "very serious" when an activity regulated under the Animal Welfare Act is "conducted without a USDA license."

Tax-feeder Sacks likely doesn't know or care that the Constitution gives Congress no power to license husbandry, or that APHIS has no lawful power over animal "welfare." He couldn't care less that the regulations APHIS cited say the Dollarhites must be "in commerce" in order to come under its thumb, and his "power" has only been grasped through a tortuous reconstruction of the Commerce Clause by Congress and the courts.

No, Sacks is only interested in the welfare of *government* brutes: "[W]hen individuals are licensed," he wrote, "USDA inspectors conduct periodic unannounced inspections of those individuals' ... facilities." In other words, licensing gives ag commissars a way to avoid nasty inconveniences like applying for warrants per the Fourth Amendment.

But then, some animals are just more equal than others.