

## BRICKBATS

◆ In America, if you dress up like one of the characters in J.R.R. Tolkien's *Lord of the Rings*, people might think you're a dork. In Kazakhstan, people might think you're a dangerous subversive. The nation has begun arresting and torturing those with "bohemian" lifestyles. That includes punk rockers, gays, members of minority religions, and people who attend Tolkien-themed parties. The authorities insist the Tolkien fans are Satanists conducting dark rituals.

◆ When Sebastian Schmidt of Cleveland boarded a Greyhound bus for Detroit, he brought an article ripped from *Esquire* to pass the time. The article, "How Women Age," included photos of nude women with strategically covered breasts. Changing buses in Toledo, he dropped some of the things he was carrying, including the article. After he picked them up, he found policeman Arrow Osborne standing over him. Osborne called the pages "borderline pornographic" and asked to inspect Schmidt's backpack. All he found was *The New York Times*. He let Schmidt go, but warned him that if he were caught reading such material in public again he'd be arrested.

◆ After enduring several burglaries, 93-year-old Ruby Barber decided to fight back. The Northampton, England, woman had her son string barbed wire around her garden and house. No one has broken in since. But the city council has ordered her to remove the wire because anyone who tries to climb it—for example, a burglar—might be injured.

—Charles Oliver

tary institute. From 0700 hours until 1800 hours every weekday, teachers inundate uniformed students with standard academic fare flanked by such military classics as reveille, inspections, and outdoor exercises. On Saturdays, the students perform community service. Brown has assured those weary of regimented education that, "While there will be an emphasis on standardized achievement, nothing will be done to harm the students' inherent capacity to learn."

The school's Web site ([www.omiacademy.org](http://www.omiacademy.org)), while fraught with grammatical errors, proudly trumpets the academy's ability to churn out corporate drones: "As disciplined, and motivated individuals, OMI grads have the capacity to quickly become an asset within any company structure.... Organized, prompt, result oriented [sic] employee [sic] are golden to any employer..." (Never mind the fact that OMI just opened and hasn't yet produced any of these golden grads.)

Opponents of the school say the military environment promotes violence and supports the racist idea that young African Americans, the school's primary demographic, require coercion to learn. Another complaint is its cost. OMI spends roughly \$20,000 per student—double what other area schools spend—and has so far required an additional \$3 million in state and local funds to stay operational.

### Drunken Assertion

By Brian Doherty

For motorists too timid to tell cops to buzz off, Don Ramsell has a product for



you. Roger Clinton, take note.

Ramsell, an Illinois defense attorney specializing in drunken-driving cases, has masterminded a device known as "Ramsell's Roadside Rights Kit." It's shaped like a passport and opens up to a pocket that holds your driver's license, insurance, and car registration. On the back is a card emblazoned with an assertion of your rights when stopped by the cops. The kit also contains a button to activate a sound chip; press it, and it tells the officer that you will only exit the vehicle for the officer's safety or if under arrest.

The printed list of rights explains that the user does not consent to any of the "field sobriety tests" police use to generate probable cause for drunken-driving arrests. Ramsell cites National Highway Traffic Safety Administration (NHTSA) data indicating that the three NHTSA-approved field sobriety tests—given prior to breath or blood alcohol-content analysis—have only a 65 percent to 77 percent accuracy rate. This guarantees that a hefty number of such arrests will turn out to be illegitimate. (Incidentally, neither reciting the alphabet

backward nor touching a finger to one's nose qualifies as NHTSA-approved tests.)

The kit sells for \$99.95, plus shipping and handling. Ramsell won't say

how many have been sold so far, though it has already played a role in at least one drunken-driving acquittal. Colin Darling was arrested for driving under the influence by police in Lake in the Hills, Illinois, after handing them the Ramsell device upon being pulled over. A jury found Darling not guilty in May.

Ramsell knows cops hate his device. He's discussed it on dozens of talk radio shows, and regularly gets abusive phone-ins from police. "The most common response from officers is, 'If I saw anybody use this product I'd arrest them,'" Ramsell says.

"I respond, 'Now you know what we are dealing with: people willing to arrest you just because you assert your rights.' That's the sort of intimidation this device is designed to respond to."

### Cryptic Biodiversity

By Sara Rimensnyder

When then-Interior Secretary Stewart L. Udall penned the first endangered species list in 1967, it included 77 species of mammals, fish, birds, reptiles, and amphibians. Today, there are

thousands. Propelled by modern technology, that number may soon rise even more rapidly.

Berkeley biology professor David Wake published a paper in August announcing four new salamander species living in heavily populated areas in California. Instead of simply looking for visual clues, Wake and his colleagues sample salamanders' protein diversity and DNA. By doing so, they can differentiate between species that look almost identical but are in fact as genetically distinct as cows and horses. Such hidden differences are known as "cryptic biodiversity."

Due to these new techniques, the number of known salamander species is increasing by about 2 percent per year. "In 1954 a thorough doctoral dissertation at Berkeley concluded that there was one species of Slender Salamander, genus *Batrachoseps*, in the state," says Wake. "There are now 15." Meanwhile, salamander populations worldwide are in decline, for reasons that are hotly debated by the distressed biologists who study them.

Cryptic biodiversity isn't limited to amphibians. By examining DNA, scientists have discovered new species of birds, reptiles, whales, and plants. Says Wake, "What all this means is that we must worry a great deal more about endangered species issues."

But with new species seemingly ready to turn up in every back yard in America, popular support may be harder to sustain.

"This could put more and more pressure on the Endangered Species Act," says Richard Stroup, a senior associate at the Montana-based Politi-

SOUNDBITE

## Broken Theory

By Sara Rimensnyder

"If a window...is broken and is left unrepaired, all the rest of the windows will soon be broken." So conjectured James Q. Wilson and George L. Kelling in a 1982 *Atlantic Monthly* article, launching their "broken windows theory" of policing—the idea that minor disorder in communities encourages major crime. The theory leapt to the forefront of urban policy a decade later in New York City, when Mayor Rudolph Giuliani and Police Chief William Bratton told cops to enforce "quality of life." That policy justified everything from cleaning up graffiti to patting down citizens judged to be a public nuisance. Gotham's crime rates plummeted, and the broken windows theory seemed incontrovertible.

Enter Bernard E. Harcourt, an associate professor of law at the University of Arizona. His new book, *Illusion of Order: The False Promise of Broken Windows Policing* (Harvard University Press), offers a stinging indictment of New York-style law enforcement. Drawing heavily on the work of French thinker Michel Foucault, Harcourt argues that cracking down on "disorder" doesn't prevent crime but in fact perpetuates it by creating a new class of deviants.

REASON Assistant Editor Sara Rimensnyder recently spoke to Harcourt by phone.

**Q:** Given New York's indisputable crime drop, what's behind your contention that broken windows policing is ineffective?

**A:** There's no good evidence that more order—fewer broken windows, less litter, fewer panhandlers—decreases crime. Crime has decreased as much or more in other major urban areas that never adopted the broken windows theory.

New York is the poster child for this claim. The question is *how* New York-style policing contributed to the drop. [Cleaning things up] may have played a small role, but the main mechanism was increased surveillance. The city hired 6,000 new cops in the early '90s. Misdemeanor arrests increased 50 percent. Stop-and-frisks increased significantly. That's not a beautification program. That's more surveillance.

**Q:** So maybe broken windows policing doesn't reduce crime per se. Why worry?

**A:** The theory divides the population into two groups: law abiders and the disorderly. It suggests that disorder sends the law abiders packing to the suburbs, and causes the disorderly to commit crimes. But the fact is, the theory *creates* this category of the disorderly, the "losers of society." And it then becomes self-fulfilling prophecy. Once we've decided that this group is the cause of crime, it's much easier to crack down aggressively. The big question is, Who gets to define these categories? Why, when crime was dropping in New York, did people say order was increasing when, at the same time, complaints of police misconduct went up 60 percent?

**Q:** In practice, how does creating this "disorderly" category threaten a free society?

**A:** I see this new approach to policing, the order-maintenance approach, as one of the two major trends in criminal justice today. It's not just New York. Chicago has adopted anti-loitering ordinances. Throughout the U.S., cities have implemented youth curfews and anti-camping laws. The other major trend is a massive increase in incarceration rates. What is ironic is that many people support order-maintenance as a milder alternative to increased incarceration. Order-maintenance is not an alternative, but an *addition* to the prison boom.



Bernard E. Harcourt

cal Economy Research Center, a free-market environmentalist think tank. "At some point the public is going to get some dim realization that species don't matter much by themselves.

What really matters is... what kind of change will be wrought if a particular population or species disappears. What we

should care about is filling niches." ♦

