

You're Under Arrest: How the US Police State Muzzles Our Right to Speak Truth to Power

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*"History shows that governments sometimes seek to regulate our lives finely, acutely, thoroughly, and exhaustively. In our own time and place, criminal laws have grown so exuberantly and come to cover so much previously innocent conduct that almost anyone can be arrested for something. If the state could use these laws not for their intended purposes but to silence those who voice unpopular ideas, little would be left of our First Amendment liberties, and little would separate us from the tyrannies of the past or the malignant fiefdoms of our own age. [The freedom to speak without risking arrest is 'one of the principal characteristics by which we distinguish a free nation.'](#)"—**Justice Neil Gorsuch**, dissenting, [Nieves v. Bartlett](#) (2019)*

What the First Amendment protects—and a healthy constitutional republic requires—are citizens who routinely exercise their right to speak truth to power.

What the architects of the police state want are submissive, compliant, cooperative, obedient, meek citizens who don't talk back, don't challenge government authority, don't speak out against government misconduct, and don't step out of line.

For those who refuse to meekly accept the heavy-handed tyranny of the police state, the danger is all too real.

We live in an age in which "we the people" are at the mercy of militarized, weaponized, immunized cops who have almost absolute discretion to decide who is a threat, what constitutes resistance, and how harshly they can deal with the citizens they were appointed to "serve and protect."

As such, those who seek to exercise their First Amendment rights during encounters with the police are increasingly finding that there is no such thing as freedom of speech.

This is the painful lesson being imparted with every incident in which someone gets arrested and charged with any of the growing number of contempt charges (ranging from resisting arrest and interference to disorderly conduct, obstruction, and failure to obey a police order) that get trotted out anytime a citizen voices discontent with the government or challenges or even questions the authority of the powers-that-be.

Merely daring to question, challenge or hesitate when a cop issues an order can get you charged with resisting arrest or disorderly conduct, free speech be damned.

In fact, getting charged or arrested is now the best case scenario for encounters with police officers who are allowed to operate under the assumption that their word is law and that

there is no room for any form of disagreement or even question.

The worst case scenario involves getting probed, beaten, tasered, tackled, searched, seized, stripped, manhandled, shot, or killed by police.

This mindset that anyone who wears a government uniform (soldier, police officer, prison guard) must be obeyed without question is a telltale sign of authoritarianism goose-stepping its way towards totalitarianism.

The rationale goes like this:

Do exactly what I say, and we'll get along fine. Do not question me or talk back in any way. You do not have the right to object to anything I may say or ask you to do, or ask for clarification if my demands are unclear or contradictory. You must obey me under all circumstances without hesitation, no matter how arbitrary, unreasonable, discriminatory, or blatantly racist my commands may be. Anything other than immediate perfect servile compliance will be labeled as resisting arrest, and expose you to the possibility of a violent reaction from me. That reaction could cause you severe injury or even death. And I will suffer no consequences. It's your choice: [Comply, or die.](#)

Indeed, as Officer Sunil Dutta of the Los Angeles Police Department advises:

[If you don't want to get shot, tased, pepper-sprayed, struck with a baton or thrown to the ground, just do what I tell you.](#) Don't argue with me, don't call me names, don't tell me that I can't stop you, don't say I'm a racist pig, don't threaten that you'll sue me and take away my badge. Don't scream at me that you pay my salary, and don't even think of aggressively walking towards me.

This is not the attitude of someone who understands, let alone respects, free speech.

Then again, there can be no free speech for the citizenry when the government speaks in a language of force.

What is this language of force?

Militarized police. Riot squads. Camouflage gear. Black uniforms. Armored vehicles. Mass arrests. Pepper spray. Tear gas. Batons. Strip searches. Surveillance cameras. [Kevlar vests.](#) Drones. [Lethal weapons.](#) [Less-than-lethal weapons unleashed with deadly force.](#) Rubber bullets. Water cannons. Stun grenades. Arrests of journalists. [Crowd control tactics.](#) Intimidation tactics. Brutality. Contempt of cop charges.

This is not the language of freedom. This is not even the language of law and order.



Unfortunately, this is how the government at all

levels—federal, state and local—now responds to those who choose to exercise their First Amendment right to speak freely.

Just recently, in fact, the [U.S. Supreme Court issued a ruling protecting police from lawsuits by persons arrested on bogus “contempt of cop” charges](#) (ranging from resisting arrest and interference to disorderly conduct, obstruction, and failure to obey a police order) that result from lawful First Amendment activities (filming police, asking a question of police, refusing to speak with police).

In *Nieves v. Bartlett*, [the Court ruled 6-3 to dismiss the case of Russell Bartlett](#), an Alaska resident who was arrested at an outdoor festival for disorderly conduct and resisting arrest after he refused to be interrogated by police and then intervened when police attempted to question other attendees about their drinking. While at a campsite party, Bartlett exercised his First Amendment right to refrain from speaking with a state trooper who was monitoring the event for underage alcohol consumption. Bartlett later intervened after observing another Trooper questioning a fellow camper in what he believed was an improper manner. At one point, one of the troopers reportedly caused Bartlett to stumble, then forced him to the ground, threatened to tase him if he resisted, and arrested him for disorderly conduct and resisting arrest. The charges were later dismissed. Bartlett sued, asserting that he was arrested in retaliation for challenging the Troopers’ authority. Although the Court recognized that people have a right to be free from a retaliatory arrest over lawful First Amendment activities, [it ruled that if police have probable cause for the arrest, the person cannot sue for a free speech violation](#) unless they can show that someone else was not arrested for the same actions.

Another case currently before the Supreme Court, *Ogle v. State of Texas*, involves the prosecution of a Texas man who faces [up to one year in jail and a \\$4000 fine for sending emails to police criticizing them](#) for failing to respond to his requests for assistance. Scott Ogle was charged with sending complaints to a sheriff’s office, including one email stating that officials were “pissing” on the Constitution. The Texas law under which Ogle was charged makes it a crime to send “annoying,” “alarming” or “harassing” electronic messages. The law is so overbroad that it could be used to punish a negative review of a restaurant posted online or caustic Facebook posts.

In yet another case, a rapper was [charged with making terroristic threats after posting a song critical of police on Facebook and YouTube](#). In refusing to hear the case of *Knox v. Pennsylvania*, the Supreme Court paved the way for individuals who engage in controversial and unpopular political or artistic expression, by criticizing the police for example, to be labeled terrorists and subject to prosecution and suppression by the government. Police had been actively monitoring rapper Jamal Knox’s (a.k.a. “Mayhem Mal”) social media presence when they discovered the song titled “F**k the Police” and charged Knox and his rap partner with multiple counts of terroristic threats and witness intimidation.

These cases reflect a growing awareness about the state of free speech in America: it’s all a lie.

If we no longer have the right to tell a Census Worker to get off our property, if we no longer have the right to tell a police officer to get a search warrant before they dare to walk through our door, if we no longer have the right to stand in front of the Supreme Court wearing a protest sign or approach an elected representative to share our views, if we no

longer have the right to protest unjust laws by voicing our opinions in public or on our clothing or before a legislative body, then we do not have free speech.

What we have instead is regulated, controlled, *censored* speech, and that's a whole other ballgame.

Remember, the unspoken freedom enshrined in the First Amendment is the right to challenge government agents, *think freely* and openly debate issues without being muzzled or treated like a criminal.

[Protest laws](#), free speech zones, bubble zones, trespass zones, anti-bullying legislation, zero tolerance policies, hate crime laws, and a host of other legalistic maladies dreamed up by politicians and prosecutors are aimed at one thing only: discouraging dissent and reminding the populace that resistance to the tyranny of the police state is futile.

Weaponized by police, prosecutors, courts and legislatures, "contempt of cop" charges have become yet another means by which to punish those individuals who refuse to be muzzled.

- Deyshia Hargrave, a language arts teacher in Louisiana, was thrown to the ground, handcuffed and [arrested for speaking out during a public comment period at a school board meeting](#).
- Fane Lozman was [arrested for alluding to government corruption during open comment time at a City Council meeting](#) in Palm Beach County, Fla.
- Dan Heyman, a reporter for the Public News Service, was [arrested for "aggressively" questioning Tom Price, the secretary of the Department of Health and Human Services](#) during an encounter in the West Virginia State Capitol.
- College professor Ersula Ore was [slammed to the ground and arrested after she objected to the "disrespectful manner" shown by a campus cop](#) who stopped her in the middle of the street and demanded that she show her ID.
- Philadelphia lawyer Rebecca Musarra was [arrested for exercising her right to remain silent](#) and refusing to answer questions posed by a police officer during a routine traffic stop. (Note: she cooperated in every other way by providing license and registration, etc.)

Cases like these have become typical of the bipolar nature of life in the American police state today: you may have distinct, protected rights on paper, but dare to exercise those rights and you put yourself at risk for fines, arrests, injuries and even death.

This is the unfortunate price of exercising one's freedoms today.

Yet these are not new developments. We have been circling this particular drain hole for some time now.

Almost 50 years ago, in fact, Lewis Colten was [arrested outside Lexington, Kentucky, for questioning police and offering advice to his friend during a traffic stop](#). Colten was one of 20 or so college students who had driven to the Blue Grass Airport to demonstrate against then-First Lady Pat Nixon. Upon leaving the airport, police stopped one of the cars in Colten's motorcade because it bore an expired, out-of-state license plate. Colten and the other drivers also pulled over to the side of the road.

Fearing violence on the part of the police, Colten exited his vehicle and stood nearby while

police issued his friend, Mendez, a ticket and arranged to tow his car. Police repeatedly asked Colten to leave. At one point, a state trooper declared, “This is none of your affair . . . get back in your car and please move on and clear the road.”

Insisting that he wanted to make a transportation arrangement for his friend Mendez and the occupants of the Mendez car, Colten failed to move away and was arrested for violating Kentucky’s disorderly conduct statute.

Colten subsequently challenged his arrest as a violation of his First Amendment right to free speech and took the case all the way to the U.S. Supreme Court, which sided with the police.

Although the Court acknowledged that Colten was not trespassing or disobeying any traffic regulation himself, the majority affirmed that Colten “[had no constitutional right to observe the issuance of a traffic ticket](#) or to engage the issuing officer in conversation at that time.”

The Supreme Court’s bottom line: protecting police from inconvenience, annoyance or alarm is more important than protecting speech that, in the government’s estimation, has “no social value.”

While the ruling itself was unsurprising for a judiciary that tends to march in lockstep with the police, the dissent by Justice William O. Douglas is a powerful reminder that, in a free society, the government exists to serve the people and not the other way around.

Stressing that Colten’s speech was quiet, not boisterous, devoid of “fighting words,” and involved no overt acts, fistcuffs, or disorderly conduct in the normal meaning of the words, Douglas took issue with the idea that merely by speaking to a government representative, in this case the police—a right enshrined in the First Amendment, by the way—Colten was perceived as inconveniencing and annoying the police.

In a passionate defense of free speech, Douglas declared:

[Since when have we Americans been expected to bow submissively to authority and speak with awe and reverence to those who represent us?](#) The constitutional theory is that we the people are the sovereigns, the state and federal officials only our agents. We who have the final word can speak softly or angrily. We can seek to challenge and annoy, as we need not stay docile and quiet. The situation might have indicated that Colten’s techniques were ill-suited to the mission he was on, that diplomacy would have been more effective. But at the constitutional level speech need not be a sedative; it can be disruptive.

It’s a power-packed paragraph full of important truths that the powers-that-be would prefer we quickly forget: We the people are the sovereigns. We have the final word. We can speak softly or angrily. We can seek to challenge and annoy. We need not stay docile and quiet. Our speech can be disruptive. It can invite dispute. It can be provocative and challenging. We do not have to bow submissively to authority or speak with reverence to government officials.

In theory, of course, “we the people” have a constitutional right to talk back to the government.

The Constitution does not require Americans to be servile or even civil to government

officials.

Neither does the Constitution require obedience (although it does insist on nonviolence).

In fact, the U.S. Supreme Court concluded as much in *City of Houston v. Hill* when it struck down a city ordinance prohibiting verbal abuse of police officers as [unconstitutionally overbroad and a criminalization of protected speech](#).

Unfortunately, the brutal reality of the age in which we live is far different from the ideals set forth in the Bill of Rights: talking back—especially when the police are involved—can get you killed.

The government does not want us to remember that we have rights, let alone attempting to exercise those rights peaceably and lawfully. And it definitely does not want us to engage in First Amendment activities that challenge the government's power, reveal the government's corruption, expose the government's lies, and encourage the citizenry to push back against the government's many injustices.

We're in deep trouble, folks.

Freedom no longer means what it once did.

Not only do we no longer have dominion over our bodies, our families, our property and our lives, but the government continues to chip away at what few rights we still have to speak freely and think for ourselves.

If the government can control speech, it can control thought and, in turn, it can control the minds of the citizenry.

Protest laws, contempt of cop charges, and all of the other bogus violations used by cops and prosecutors to muzzle discontent and discourage anyone from challenging government authority are intended to send a strong message that in the American police state, you're either part of the herd, marching in lockstep with the government's dictates, or you're a pariah, a suspect, a criminal, a troublemaker, a terrorist, a radical, a revolutionary.

Yet by muzzling the citizenry, by removing the constitutional steam valves that allow people to speak their minds, air their grievances and contribute to a larger dialogue that hopefully results in a more just world, the government is creating a climate in which violence becomes inevitable.

When there is no steam valve—when there is no one to hear what the people have to say, because government representatives have removed themselves so far from their constituents—then frustration builds, anger grows and people become more volatile and desperate to force a conversation.



As John F. Kennedy [warned](#) in March 1962, "Those who make peaceful revolution impossible will make violent revolution inevitable."

As I point out in my book [Battlefield America: The War on the American People](#), the government is making violent revolution inevitable.

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