

# The Gottlieb-Tartaro Report

THE INSIDERS GUIDE FOR GUN OWNERS

Issue 141

September, 2006

Dear Subscriber,

The Second Amendment Foundation's "**Katrina Case**" against the City of New Orleans -- for illegally confiscating firearms from private citizens in the hurricane's aftermath -- **has won another victory!**

**Judge CARL BARBIER** of the U.S. District Court for the Eastern District of Louisiana has **rejected an attempt to dismiss the suit** filed last year by SAF and the National Rifle Association against the City, Mayor RAY NAGIN and Police Superintendent WARREN RILEY -- and ordered the city to submit a response.

SAF officials applauded this latest ruling in the lengthy case. "**For almost a year we've been fighting the city's delaying tactics,**" said SAF Founder ALAN GOTTLIEB, "which included outright lying by city officials that any firearms had been seized."

Only when SAF **threatened Mayor NAGIN and Superintendent RILEY with a motion for contempt** did the city miraculously discover that **they actually did have more than 1,000 firearms** that had been taken from their owners.

Now the case can go forward in hopes of winning justice for the hundreds of gun-owners who lost their firearms to out-of-control government intrusion.

**In Ohio**, another government intrusion case: the City of Oregon has filed a response to DANIEL SAYERS' motion to dismiss gun charges, arguing **that there is no constitutionally protected right to carry a firearm openly.**

SAYERS, a concealed handgun license holder, **was arrested in May by Oregon police after carrying openly** at a Sunoco gas station in Oregon, Ohio. He went in to pay for his gas, returned to clean his windshield and checked his oil before going on to work without incident.

**Another customer called 911 to report a "man with guns on his hip"** in the store. Oregon police responded, detained, and arrested Sayers, charging him with **failure to notify the police he had a license and was carrying**, and a local Oregon ordinance that *completely prohibits possession of a firearm in public.*

Ohio's concealed carry law **mandates openly carrying in a vehicle**, but does not mandate carrying concealed **outside the vehicle.**

SAYERS' case is being supported by **Ohioans for Concealed Carry.**

**In Maine**, Federal Court of Appeals Judge SANDRA LYNCH **has ordered an indictment restored** against Maine resident JOHN FRECHETTE, who pleaded no contest in a "mass arraignment" in a **1996 misdemeanor assault conviction involving domestic violence.**

In 2005, U.S. District Court **Judge D. BROCK HORNBY dismissed the indictment**, saying that the "mass arraignment" did not qualify as a "knowing and intelligent" waiver of his rights.

Maine gun control advocates, **including U.S. Attorney for Maine PAULA SILSBY**, feared that HORNBY's ruling **would make it harder to prosecute gun owners under a federal domestic violence law.**

**SILSBY has made extensive use of federal gun laws**, which *prohibit anyone ever convicted of misdemeanor domestic violence from ever possessing a firearm.*

LYNCH's unfavorable ruling **makes it possible for anti-gun federal prosecutors to continue using the domestic violence gun-control law.** (continued page 2)

**Also in this issue:** ● Put Bloomberg behind bars ● Success with Castle Doctrine law in many states ● Nobody's proof-reading New York laws ● Pennsylvania to try passing "one-gun-a-month" bill ● Scotland has new sword-control law ● Self-defense success stories in our Page Eight "Parting Shot"

**ON THE  
LEGAL FRONT**

(Continued from Page 1)

In New York City, **Mayor MICHAEL BLOOMBERG** won a questionable victory in his outrageous anti-gun lawsuit when **two of 15 gun dealers sued over allegedly illegal sales caved in and reached a settlement** that puts their inventory and sales under a special master who will monitor them with undercover operations.

The 15 out-of-state dealers being sued allegedly sold guns that were used in crimes in New York City.

The two dealers, **A-1 Jewelry and Pawn, Inc. and AAA Gun & Pawn Brokers**, both located in Georgia, agreed to receive additional training to prevent unlawful sales to illegitimate "straw" purchasers. **They also agreed to give unprecedented and widespread access to gun purchase records**, and to pay fines up to \$5,000 if monitors see any sale they consider "improper."

## ON THE LEGAL FRONT

**The monitoring settlement lasts for three years** and removes the dealers from the lawsuit, which sought money damages. The monitoring clock will start ticking all over again if any "improper" sales are detected.

GREG DRIGGERS of AAA said that although **he felt the dealers were unfairly tricked by a sting operation** in which Mayor BLOOMBERG sent private investigators into his shops, he had *no problem with a monitor*. He said he already assists federal and Georgia authorities, so it "made sense" to extend the courtesy to New York.

Attorney MICHAEL COLE, who is representing his brother's business, **Cole's Gun Shop** in South Boston, said **he has rejected the settlement with New York**, and doubts if any of the shops named in the suit have settled because **they think they did anything wrong** but because they were overwhelmed by the cost of defending themselves against the resources of New York.

**Dennis Alverson**, owner of Old Dominion Gun & Tackle shop in Danville, Virginia, also a defendant in the New York lawsuit, thought **the Georgia shops should not have caved in**.

**"I'm not in agreement with either of them,"** he told a reporter.

He added, **"If we were doing anything wrong, we would not be in business** because the ATF (Bureau of Tobacco, Alcohol, Firearms and Explosives) would shut us down."

Mayor BLOOMBERG said ATF "was asleep at the switch" and **not doing its job**.

ALVERSON has received offers from New York City, but told them, **"No Deal."**

LARRY KEANE of the National Sports Shooting Foundation (NSSF), the trade association for the firearms industry, said that New York's proposed settlement was **"redundant to existing federal regulatory oversight and joint educational programs between the firearms industry and the ATF."**

Each federal firearms licensed dealer receives extensive educational training from ATF.

NSSF has partnered for years with the ATF, which, Keane emphasized, is **the appropriate and legally authorized federal regulatory agency**, not New York City.

The firearms trade group provides dealers with education and training on how to prevent illegal straw purchases through its **"Don't Lie for the Other Guy"** program.

NSSF also trains gun dealers on **how to comply with the extensive laws and regulations** governing the lawful sale of firearms through its **"Partner for Progress"** seminars.

It's clear to gun rights advocates that **Mayor BLOOMBERG is more interested in making headlines than real progress in crime control**. His undercover stunt interfered with as many as 18 ongoing federal investigations, jeopardizing the lives of undercover law enforcement officers and witnesses.

**The Gottlieb-Tartaro Report** ® (ISSN 1079-6169) is published monthly by the Second Amendment Foundation, Liberty Park, 12500 N.E. 10th Place, Bellevue, WA 98005. Phone (425)454-7012. FAX (425)451-3959. Please call or write if you have a question regarding your subscription.

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Subscriptions: Eva Hart

Published by:

Design: Northwoods Studio

Second Amendment Foundation

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**POSTMASTER:** send address changes to **The Gottlieb-Tartaro Report**, 12500 N.E. 10th Place, Bellevue, WA 98005.

Printed in the USA.

## **ROGUE MAYOR BLOOMBERG IS OBSTRUCTING JUSTICE**

More than three months after New York City Mayor Michael Bloomberg announced that he had sent private investigators into five states to catch about 45 gun dealers making illegal sales, he is refusing to turn over the evidence they've gathered to the ATF, the federal agency that investigates violations of federal firearms laws.

### **ON THE BLOOMBERG FRONT**

The situation is even stranger: New York City didn't file criminal charges against the gun dealers they accused of criminal acts, but instead filed civil lawsuits against 15 of them asking for money damages from the dealers.

The city won't turn over the evidence, which includes videotapes of gun dealers allegedly allowing straw purchases of guns, unless the ATF signs an evidence-sharing agreement that would prevent the federal agency from making the evidence public.

Such an agreement would be pointless - and an infringement on the ATF's jurisdiction - because federal agencies do not make public any information about ongoing investigations in the first place.

The city did give the ATF two videotapes immediately after it announced the sting operation last May, but the mayor's criminal justice coordinator John Feinblatt complained that the ATF has not yet given the city its analysis of the tapes, which the ATF has no obligation to do.

In effect, Mayor Bloomberg is hiding alleged criminal evidence from the proper law enforcement authority and damaging investigation of and possible action against gun dealers that may have broken the law.

### **PROSECUTE THE ROGUE MAYOR!**

The Second Amendment Foundation (SAF) was outraged at Mayor Bloomberg's antics and called on U.S. Attorney General Alberto Gonzales to prosecute the mayor for obstruction of justice.

The ATF may be considering such a move. Soon after the May news conference in which Mayor Bloomberg announced his sting operation, the ATF said it would be looking into not only the dealers the mayor said were illegally selling guns, but the mayor's investigators as well. ATF did not say whether it would go after the mayor directly, but it has the authority if he broke federal gun laws.

Because the investigators are private citizens, they would have broken the law if they actually made straw purchases or intentionally filled in incorrect information on the gun licensing forms. Also, some states have stringent rules about hidden video equipment like that used by Bloomberg's private investigators.

Law enforcement sources were highly critical of the operation, but said it is unlikely the private investigators would be prosecuted, but that ATF's announcement was sending a message to City Hall to stay off its turf.

Alan Gottlieb, SAF Founder, said in his letter to Attorney General Gonzales, "Allegations of criminal wrong-doing do not necessarily mean the retailers victimized by the mayor's self-generated publicity have actually committed any crime, yet Bloomberg's grandstanding has already convicted them on television and in news columns."

If these retailers actually committed crimes, Gottlieb asked, "then why weren't criminal charges filed? It is possible that Bloomberg's high-profile 'investigation' may have actually turned up nothing of a criminal nature involving the dealers targeted by his vigilante investigators?"

Bloomberg may be a billionaire, but that does not put him above the law. It also does not give him a license to destroy by innuendo and frivolous lawsuits the livelihoods of firearms dealers because he disagrees with the way they make a living.

Steven Holbrook, a Second Amendment lawyer in Virginia, said, "The feds don't have to sign an agreement if there's evidence of criminality. It demonstrates that Mayor Bloomberg lacks sincerity in this so-called crusade, because if he believes crimes have been committed, he would want federal enforcement action."

### **15 STATES HAVE PASSED "CASTLE DOCTRINE" LAWS**

In the last year, 15 states have enacted "stand your ground" laws that expand the right of self-defense, allowing crime victims to use deadly force to protect their lives or property without fear of being turned into the criminal by unfair prosecution.

**IN THE  
STATES**

Also known as the "Castle Doctrine" ("a man's home is his castle"), the first of these new laws took effect in Florida last October. The rest were enacted this year, mostly in Southern and Midwestern states.

The Florida law, which served as the model for the others, gives people the right to use deadly force against intruders entering their homes or their vehicles. No longer does a person attacked have the duty to retreat, but has the right to stand their ground "and meet force with force."

Pro-gun advocates will lobby for similar laws in eight states next year.

### **CALIFORNIA SENATE PASSES MICRO-STAMPING AMMO BILL**

The day after the California state Senate passed Senate Bill AB 352 to require "micro-stamping" by all semiautomatic handguns, it was criticized by law enforcement officers and gun rights advocates.

The law would declare "unsafe" any semiautomatic pistol that does not include a "microscopic array of characters, that identify the make, model and serial number of the pistol, etched into the interior surface or internal working parts of the pistol." That information must be "transferred by imprinting on each cartridge case when the firearm is fired."

Not only could criminals easily collect spent casings from police and private firing ranges and plant them to implicate innocent people, but the casing could not be recycled as reloaded ammunition because of the markings, creating a costly waste disposal problem.

James Fotis, executive director of the Law Enforcement Alliance of America (LEAA), urged Assembly members to kill the bill and they did.

### **CONCEALED CARRY LAW MAKES KANSAS GUN SALES SOAR**

Gun dealers statewide are reporting record gun sales as Kansans are arming themselves to take advantage of the new Kansas concealed carry gun law, said Jeff Howlett, owner of Kansas Firearms Specialties in Tonganoxie.

While buying guns, Kansans are also filling out applications for a concealed carry license.

Applications became available July 1 at local sheriff's offices and by early August the Attorney General's office had received 446 applications, said Chuck Sexson, former assistant director of the Kansas Bureau of investigation and now state director of concealed services.

Sexson said "We're not finding any significant issues with 90 percent of their backgrounds."

### **KENTUCKY COLUMNIST FINDS GUN ISSUE HURTS RURAL DEMOCRATS**

David Gambrel, contributing columnist for the Lexington Herald-Leader has said something we all knew anyway: "One issue that has severely hampered the Democratic Party in rural America, particularly the South, is gun control."

"If you look at a U.S. map that shows county by county where candidates for president have won and lost in recent elections," said Gambrel, "almost none of the counties where Democrats won are in rural areas."

As a rural Democrat, Gambrel made quite an admission, saying "this greatly concerns me."

For urbanites, he said, "guns are often associated with school shootings, gangs and crime."

In rural America, guns are family heirlooms or symbols of pride in liberty.

### **MARYLAND GUN CONTROL MOB TRYING FOR "ASSAULT WEAPON" BAN**

To no one's surprise, Sarah Brady of the Brady Campaign to Prevent Gun Violence and leaders of CeaseFire Maryland have joined several candidates she is endorsing for the Maryland Senate and General Assembly to begin a push to ban so-called "assault rifles."

**IN THE STATES**

Brady held a news conference recently touting anti-gun politicians including Maryland Senate candidates Jim Rosapepe and Mike Lenett.

Rosapepe is running against State Senator John Giannetti, who single-handedly blocked passage of an "assault rifle" ban in the state during the last legislative session.

### **NEBRASKA CITIES FIGHTING OVER CONCEALED CARRY BANS**

Omaha, Nebraska will permit concealed weapons and Columbus, Nebraska will not.

The Omaha City Council successfully overrode the veto of Mayor Mike Fahey in a 5-2 vote, the same margin that passed the measure two weeks earlier.

In Columbus, a town of 21,000 about 75 miles west of Omaha on U.S. Highway 30, the Public Property, Safety and Works Committee voted to keep its ordinance banning concealed weapons within city limits.

The state Legislature passed a concealed carry permit act, LB 454, and Gov. Dave Heineman signed it into law, allowing people to carry concealed handguns beginning January 1, 2007. It does not forbid cities to ban concealed carry.

Columbus Police Chief William Gumm supported the ban, saying the state law will not affect the ordinance, which has existed since 1963.

### **NEW YORK GOVERNOR PATAKI VETOES TWO GUN-RELATED BILLS**

New York Governor George E. Pataki (R) has vetoed two gun-related bills, not because he didn't like the policy they created, but because they were so poorly worded that they couldn't be enforced as the Legislature intended.

One bill, A10490/7105B, would have required ads for guns to show the actual country of origin, so buyers could spot guns made overseas and buy American.

Pataki vetoed it because it didn't limit the requirement to manufacturers and dealers, but would have interfered with private sales between individuals using classified ads, who might not know or be able to find out the country of origin.

The other vetoed bill, A10113-A/S6826-A, increased penalties for the illegal taking of deer, but it also referred to revoking a "firearms license" when it meant "hunting license." Licenses, actually permits, apply only to handguns in New York, and not hunting rifles.

### **OHIO TOWNSHIP LIFTS GUN BAN IN PARKS**

Trustees in Miami Township have voted to remove its "no guns" sign on five developed parks because the ban conflicts with Ohio's new concealed carry law.

Anybody who wants to carry a gun openly in a park, or has a concealed weapon permit, will no longer have to worry about a fine of up to \$100 for a first offense. The old park rules against guns date back to 1990 and will be revised.

The public needn't worry about armed citizens, says Robert Cornwell, executive director of the Buckeye State Sheriff's Association. "Those with the concealed carry licenses have been good, law-abiding citizens, he said.

"The scenarios about the gunfight at the OK Corral didn't come to fruition."

### **PENNSYLVANIA HOUSE TO CONSIDER GUN CONTROL BILLS**

Pennsylvania House Majority Leader Sam Smith (R-Jefferson) says he will convene a forum to consider a "one-gun-a-month" proposal, which appears to be a retread of Governor Ed Rendell's 2002 campaign proposal.

Urban areas are being hit by a crime wave, but Rep. Katie True (R-Lancaster) said, "I don't think it's going to solve anything, because the bad guys and bad gals are going to be able to obtain the guns no matter what restricting laws we have in place."

### **SOUTH AFRICAN GUN DEALERS DEVASTATED BY GUN CONTROL LAW**

Ninety percent of South Africa's gun dealers have been driven out of business and lost their livelihoods as a result of the Firearms Control Act, Parliament's safety and security committee has learned.

Some 640 of 720 gun dealers went out of business by June 2004, two years after the law went into effect, but the numbers were not made public.

The firearms industry was worth in excess of R2 billion (2 billion Rand, equivalent to about \$277 million) and employed thousands of people before the act destroyed their jobs.

The astounding figures were part of testimony heard in hearings on a bill amending the act. The gun control lobby called for the act of be strengthened, while pro-gun groups want it repealed as unconstitutional.

**AROUND THE WORLD**

### **IRISH JUSTICE MINISTER PESSIMISTIC ABOUT GUN TURN-IN PROGRAM**

An amnesty which allows people to hand in firearms without fear of prosecution will not lead to any significant reduction in the arsenals of Irish crime gangs, according to Minister for Justice Michael McDowell.

The amnesty is in operation from September and October ahead of the introduction of new minimum mandatory jail sentences for firearms offenses.

### **SCOTLAND IMPOSES SWORD-CONTROL BAN**

Scottish Justice Minister Cathy Jamieson has announced a new ban on swords "unless sold for legitimate reasons" as the latest step from the Scottish Executive to curb the problem of knife crime.

Shops selling swords will need a license, as will businesses dealing with non-domestic knives and other bladed weapons such as machetes.

The sword ban and knife-dealer licensing come weeks after a nationwide knife amnesty. Handguns were banned in 1998 throughout Great Britain.

### **SEARCH FOR ILLEGAL GUNS IN IRAQ TROUBLE SPOT**

"Do you have a gun? Do you mind if we check around?" is a question being asked by polite but firm U.S. soldiers as they conduct house-to-house searches for illegal weapons in Baghdad's western Chazalia neighborhood.

"Each home is allowed one Kalashnikov and one magazine," for self-defense, said Captain Teddy Kleisner, a company commander from the 2nd Infantry Division.

### **SHOW US HOW IT'S DONE, GUN CONTROL LAWMAKERS**

Papua New Guinea students in a gun-surrender program at Mendi High School in Southern Highlands Province told Members of Parliament to surrender theirs first.

"The leaders must hand over their guns first because we know that it is the leaders who buy the guns and give them to us," said one student.

"You want our guns. But when we have guns, we have our security. Our security is guaranteed because of the guns. So, why is it that you want us to hand over the guns?"

### **INUIT IN NUNAVUT URGED TO IGNORE GUN LAW**

Nunavut's land claim organization NTI (Nunavut Tunngavik Incorporated) is telling Inuit to disregard a letter sent out by the Canada Firearms Centre calling on them to turn over unregistered firearms to the RCMP.

The letter was sent before the new Conservative government announced a one-year amnesty for owners of unregistered firearms.

NTI won a court injunction against the law in 2003 and are exempt.

### **GUN REGULATION IN PHILIPPINES**

Davao City Mayor Rodrigo Duterte has ordered strict regulation on all rifles higher than .22-caliber, because gun buyers are responding to a crime wave. The regulations do not ban such rifles in the city, but regulate them "to know who are the buyers of these guns," Duterte told a reporter, fearing terrorists.

**GUN NEWS TICKER - QUICK TAKES ON THE NEWS**

● **Mesa, Arizona:** A serial killer on the loose in Central Arizona has boosted gun sales and gun range customers arming themselves for self-defense. A series of 35 attacks on humans and animals since May has set the community on edge. Bridger Kimball, general manager of Caswell's Shooting Range in Mesa said, "We've had a lot more women at our Ladies Days." Mike Turner of Chandler brought his girlfriend, Toni Clemens, to the firing range to practice with a handgun.

● **Springfield, Massachusetts:** Smith & Wesson Holding Corporation registered with the Securities and Exchange Commission to sell from time to time up to 15 million common shares. The legendary handgun manufacturer said it will use the net proceeds for general corporate purposes. No underwriters were listed in the filing.

● **Newport, New Hampshire:** Sturm, Ruger President Stephen L. Sanetti has announced that the company is "going lean" and is working "to reduce or eliminate waste, scrap, rework or unneeded inventories." To put the new plan into action he has hired Thomas P. Sullivan as vice president of Sturm, Ruger & Company's Newport operations, overseeing the firm's firearms manufacturing and Pine Tree Castings facilities in New Hampshire. Sullivan was hired away from his position as vice president of lean enterprise at IMI Norgren Ltd., the pneumatics engineering company of a worldwide parent company. Rapid change to high efficiency is what Sturm, Ruger is looking for.

● **Washington, D.C.:** Violence on the National Mall has outraged Americans across the nation, but one group is calling on the government of the District of Columbia to do something *effective* about it: arm its citizens for self-defense. The Bellevue, Washington-based Citizens Committee for the Right to Keep and Bear Arms (CCRKBA) has called on Congress and the Washington, DC municipal government to abolish the District's 30-year-old gun control regulations. Joe Waldron, executive director of CCRKBA, said the reason robberies are up 14% and armed assaults climbed 18% since mid-June is the fact that law-abiding citizens have no way to defend themselves and police are hopelessly incapable of doing anything about crime.

● **Ibiza, Spain:** British singer/songwriter James Blunt in real life isn't like his cuddly songs (his "You're Beautiful" topped the Billboard charts earlier this year, making him the first Brit to be Number One in America since Elton John in 1997). Since he bought a \$2 million retreat on the island of Ibiza off the coast of Spain, he's been so plagued by fans scrounging in his garbage for souvenirs and wandering around his private grounds, he has invested in a gun that shoots rocks at them. The gossip website, "A Socialite's Life," advised Blunt, "You're famous now. Get used to it. You don't have privacy anymore. Hire Security. Shooting rocks at your fans is not a good PR strategy."

● **New York City:** Rebecca Peters is director of the International Action Network On Small Arms (IANSA), a consortium of anti-gun groups worldwide, and particularly trying to undermine the Second Amendment in the United States. Who's paying them to do that? Here's a partial list of their funders: the governments of the United Kingdom, Belgium, Sweden and Norway (and you thought they were friendly nations), as well as the Ford Foundation, Rockefeller Foundation, Compton Foundation, Ploughshares Fund, John D. and Catherine T. MacArthur Foundation, George Soros' Open Society Institute, the far-left Samuel Ruben Foundation and the so-called Christian Aid that fights economic development in the Third World.

● **Port Sanilac, Michigan:** United States Coast Guard stations around the Great Lakes began mounting M240 machine guns on cutters and small boats this year for anti-terrorist interdiction. Environmental groups and boaters have protested proposed live firings of the machine guns as part of routine readiness exercises in 34 live-fire zones all around the Great Lakes. Perhaps these citizens would prefer that terrorists do the shooting.

# Parting Shot

## ...AND THE LIST GOES ON...

With the passage of "stand your ground" laws in 15 states in the past year, there are now so many examples of law-abiding citizens defending themselves and their loved-ones with deadly force that it's hard to keep track.

Here are just a few of the latest:

Durham, North Carolina: Police responded to a break-in in progress on Dearborn Drive at 1:40 a.m. where they found a resident who told them that two men had kicked in the front door and entered his house.

The resident told police he had shot and killed one unidentified male, who was pronounced dead at the scene.

The resident also shot and wounded the second male, who fled. Police later apprehended a 19-year-old male at the Duke University Hospital emergency room where he had come for treatment of a gunshot wound to his arm.

Lawrenceville, Georgia: Jose Berclan, 23, walked out of his bedroom about 10:30 p.m. to find a stranger inside his house on Connors Court. Berclan darted back into his bedroom and retrieved a handgun and confronted the man.

The intruder pulled out his own gun and fired at Berclan, who returned fire and killed the intruder with five shots.

A neighbor, Rick Nophouvieng, 27, let Berclan use his phone to call 911 and accompanied Berclan back to see the intruder. "The black dude that got killed was three or four times Jose's size," he told police.

Columbia, South Carolina: A homeowner identified only as "Mark" came home after friends had dropped him off only to find two intruders inside his house.

They demanded money and "Mark" gave them what he had, but they wanted more and demanded he call his friends back on his cell phone so they could rob them.

"Mark" called them back, and one sensed there was something wrong. He returned to "Mark's" house, got out of his car, and went inside armed and ready.

The robbers saw the friend's gun and shot him, but he managed to shoot back, killing Javis Rogers, a Columbia man who had been in prison many times for several crimes including burglary. The other suspect fled. Police asked anyone with information to call the Richland County Sheriff's Office.

"Mark's" friend was not seriously wounded.

*Alan M. Gottlieb*

*Joseph D. Tartaro*

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