

# National Review Online<sup>1</sup>

October 2010

*Pay-to-Spray*

## Firefighters Watch as Home Burns

By Daniel Foster

Posted on October 04, 2010 12:06 PM

Oy, this is bad for the libertarians:

OBION COUNTY, Tenn. — Imagine your home catches fire but the local fire department won't respond, then watches it burn. That's exactly what happened to a local family tonight.

A local neighborhood is furious after firefighters watched as an Obion County, Tennessee, home burned to the ground.

**The homeowner, Gene Cranick, said he offered to pay whatever it would take for firefighters to put out the flames, but was told it was too late. They wouldn't do anything to stop his house from burning.**

Each year, Obion County residents must pay \$75 if they want fire protection from the city of South Fulton. But the Cranicks did not pay.

The mayor said if homeowners don't pay, they're out of luck.

This fire went on for hours because garden hoses just wouldn't put it out. It wasn't until that fire spread to a neighbor's property, that anyone would respond.

Turns out, the neighbor had paid the fee.

"I thought they'd come out and put it out, even if you hadn't paid your \$75, but I was wrong," said Gene Cranick.

That bolded paragraph is what really gets to me. I have no problem with this kind of opt-in government in principle — especially in rural areas where individual need for government services and available infrastructure vary so widely. But forget the politics: what moral theory allows these firefighters (admittedly acting under orders) to watch this house burn to the ground when 1) they have already responded to the scene; 2) they have the means to stop it ready at hand; 3) they have a reasonable expectation to be compensated for their trouble?

The counterargument is, of course, that this kind of system only works if there are consequences for opting out. For the firefighters to have put out the blaze would have opened up a big moral hazard and generated a bunch of future free-riding — a lot like how the ban on denying coverage based on preexisting conditions, paired with penalties under the individual mandate that are lower than the going premiums, would lead to folks waiting until they got sick to buy insurance.

But that analogy is not quite apt. Mr. Cranick, who has learned an incredibly expensive lesson about risk, wasn't offering to pay the \$75 fee. He was offering to pay whatever it cost to put out the fire. If an uninsured man confronted with the pressing need for a heart transplant offered to pay a year in back-premiums to an insurer to cover the operation, you'd be right to laugh at him. But imagine if that man broke out his check book to pay for the whole shebang, and hospital administrators denied him the procedure to teach him a lesson.

I'm a conservative with fairly libertarian leanings, but this is a kind of government for which I would not sign up.

### UPDATE: A reader writes:

Yes, he offered to pay, while his house burned. I can't prove what would have happened, but the FD would probably have had to sue him to gain full reimbursement. Maybe they need to start carrying pre-printed contracts for the homeowners to sign quickly and obligate themselves for the full cost plus a little profit.

And indeed, I should have said in the original post: Yes, make him sign a contract if you like. My point is that, if you're the firefighter, you have all-things-considered reasons here to put out that fire. You're a free, reasonable agent and you have to weigh your moral and prudential reasons for acting here. On the one side you have the chance of nonpayment, the potential for creating a free-rider problem, and your duties to the town and the department that

employ you. On the other you have the fact that we've got a pretty sophisticated system for enforcing contracts — written or otherwise. You also have the fact that letting the blaze burn could lead to damaged property (not to mention loss of life) among fee-paying citizens. (Consider: if policing were opt-in, and an outlaw were holed up in your house with a gun to your head, should we wait to arrest him until he leaves your property — come what may?). And then there's the little matter of your individual conscience.

Do readers think that the preponderance of your reasons here really tell you not to act?

**UPDATE II:** Kevin Williamson pops his head into my office, and as expected makes the compelling anarcho-capitalist case for letting the sucker burn. I don't want to caricature his arguments, but then again, I didn't have my tape recorder going, so my best approximation is: "Read your Pareto." The status quo ante was no fire service for folks outside the city limits. Under that system both the Cranicks' house and the neighbors' burn to the ground. Under the current pay-to-spray program, only one house burns (as the department responded when a fee-paying neighbor worried that the fire was spreading). QED.

Resources are scarce, Kevin says. What if there are two house fires on different sides of town — one owned by a fee-payer, the other by a free rider — and only one truck to respond?

Well, by all means, in that case send the truck to the fee-payer first. But I think the Pareto argument sets up a false choice in the actual case. It's not between one house burning to the ground and two houses burning to the ground. The South Fulton Fire Department already exists — its fixed costs funded by a combination of tax-dollars from in-city residents and opt-in fees from some county residents. It has already responded to the scene of the fire to protect a fee-payer's property. There is an enforceable verbal agreement from the Cranicks to pay the full per-fire cost.

Kevin would have us think about Pareto optimality and aggregates here. But we're not designing the policy from scratch, we're applying the policy we have to a concrete case in which not just the parameters of the policy, but also our moral intuitions, have to be brought to bear.

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## **Pay-for-Spray Fire Department: Doing the Right Thing**

By Kevin D. Williamson

Posted on October 04, 2010 12:44 PM

Dan, you are 100 percent wrong.

The situation is this: The city of South Fulton's fire department, until a few years ago, would not respond to any fires outside of the city limits — which is to say, the city limited its jurisdiction to the city itself, and to city taxpayers. A reasonable position. Then, a few years ago, a fire broke out in a rural area that was not covered by the city fire department, and the city authorities felt bad about not being able to do anything to help. So they began to offer an opt-in service, for the very reasonable price of \$75 a year. Which is to say: They greatly expanded the range of services they offer. The rural homeowners were, collectively, better off, rather than worse off. Before the opt-in program, they had no access to a fire department. Now they do.

And, for their trouble, the South Fulton fire department is being treated as though it has done something wrong, rather than having gone out of its way to make services available to people who did not have them before. The world is full of jerks, freeloaders, and ingrates — and the problems they create for themselves are their own. These free-riders have no more right to South Fulton's firefighting services than people in Muleshoe, Texas, have to those of NYPD detectives.

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## **Re: Pay to Spray**

By Jonah Goldberg

Posted on October 04, 2010 1:23 PM

Why isn't there a happy middle ground? You can pay 75 bucks upfront or, if you wait until your house is on fire, it will cost you, I dunno, \$10,000? Lots of things work like this.

Here's the more important part of the story, letting the house burn — while, I admit sad — will probably save more houses over the long haul. I know that if I opted out of the program before, I would be more likely to opt-in now. No

solace to the homeowner, but an important lesson for compassionate conservatives like our own Dan Foster (Zing!). As Edmund Burke said, example is the school of mankind and he will learn from no other.

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## **Re: Pay-To-Spray Firefighters**

By John Derbyshire

Posted on October 04, 2010 1:47 PM

Dan, Kevin: I am entirely with the South Fulton fire department here. In the terms of Nico Colchester's great 1996 essay, they are being crunchy rather than soggy:

Crunchy systems are those in which small changes have big effects leaving those affected by them in no doubt whether they are up or down, rich or broke, winning or losing, dead or alive. . . . Sogginess is comfortable uncertainty. . . . The richer a society becomes, the soggy its systems get. Light-switches no longer turn on or off: they dim.

One of the duties of conservatives in this soggy fallen world is to stand up for crunchiness. For the fire department to have extinguished the Cranicks' fire would have been soggy, even aside from the considerable degree of sogginess it would have left on the property.

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## **Re: Re: Pay to Spray**

By Daniel Foster

Posted on October 04, 2010 2:04 PM

Jonah, you know how to hit a guy where it hurts: deploying my precious Burke against me and calling me the dread double C-word. But notice, my argument isn't about the wisdom of the policy, or of Mr. Cranick for not opting into it. It's about what to do if you're the fire chief sitting in front of the burning house. As I said in response to Kevin, we're not talking from "the original position" here. We're in medias res:

The South Fulton Fire Department already exists — its fixed costs funded by a combination of tax-dollars from in-city residents and opt-in fees from some county residents. It has already responded to the scene of the fire to protect a fee-payer's property. There is an enforceable verbal agreement from the Cranicks to pay the full per-fire cost.

Kevin would have us think about Pareto optimality and aggregates here. But we're not designing the policy from scratch, we're applying the policy we have to a concrete case in which not just the parameters of the policy, but also our moral intuitions, have to be brought to bear.

Now, maybe the fire was too far gone by the time they responded to the fee-paying neighbor's call, or it would have been too dangerous, or there is some other similarly compelling prudential reason to let the sucker burn. But if there wasn't, I ask again. What case can be made for doing nothing?

Besides, I'm constitutionally allergic to any libertarian argument that calls on "aggregates" or "the greater good" in its defense. This is a much, much longer conversation, but I'm inclined to think those kinds of appeals are anti-libertarian on their face. There are few more serious political libertarians than the late Harvard philosopher Robert Nozick, whose central insight was that no political regime can legitimately use some collectivity as the fundamental unit of analysis. Nozick said:

There is no social entity with a good that undergoes some sacrifice for its own good. There are only individual people, different individual people, with their own individual lives. Using one of these people for the benefit of others, uses him and benefits the others. Nothing more.

But that cuts both ways. Just as we shouldn't buy it when liberals tell us we should all be forced to buy health insurance "for the greater good," I'm not convinced by Derb's argument that the Cranick's house should have been left to burn to teach us all a valuable lesson.

God does not play dice and He has not built moral creatures who are confronted with aggregates or averages. No, we're confronted with real individual people and real individual problems, and surely we must make decisions on those grounds. Surely we don't need slide rulers and crystal balls and degrees in behavioral psychology to figure out the right thing to do.

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## **A Note from a First Responder**

By Daniel Foster

Posted on October 04, 2010 2:15 PM

Ton of e-mail on this Pay to Spray stuff (good! I'm reading it all even if I can't respond).

This one, from an ex first-responder is sensible even if I don't fully buy it. I'm also going to resist the urge to Godwin's Law it:

When someone goes to work for another they, to some degree, relinquish their right to self-determination in action. Their time and efforts belong to the employer for the contracted periods of work. Supervisors and managers establish what behavior is acceptable and how the organization will respond to a situation. Case in point, the Firefighters' moral choices were no longer between watch the fire and put it out. The Department had removed the second option. The individual's choice was now watch the fire; disobey orders for which they would rightly face disciplinary action; or QUIT the job. Although it may have galled the Firefighters to just sit there, they held no legal nor moral right to use resources (time and equipment) which belonged to the Department and ultimately to the tax-paying public.

While my sympathies go out to the family and I as an individual would be morally bound to assist if I could, I cannot fault the responders who followed legal orders. The city council should amend their policy. Those who live in the city pay the taxes. Those outside must sign an addendum to their property titles in which they choose to either pay \$75 a month or acknowledge that they will be liable for full repayment of costs. They may or may not be given an option themselves of letting it burn so long as others are not in danger.

The city took a logical, if not well thought out, step toward fiscal responsibility and personal accountability.

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## **Krugman Gets Pay-to-Spray Wrong**

By Daniel Foster

Posted on October 05, 2010 3:18 PM

The steady stream of e-mails on the South Fulton fire story — 70/30 disagreeing with me — continues, as if issuing from the working end of a fire hose located anywhere else but in South Fulton, Tennessee.

I don't have much more to add, except to note that Paul Krugman, in a brief blog post on the subject, makes a really bad analogy:

This is essentially the same as denying someone essential medical care because he doesn't have insurance. So the question is, do you want to live in the kind of society in which this happens?

No. Krugman would have been correct if he'd said "This is essentially the same as an insurance company refusing to pay for someone's essential medical care because that person never bought insurance in the first place." And I don't mind living in that kind of society at all.

The argument that I made was about the moral and prudential cost/benefit analysis attached to the question of whether firefighters, having responded to the scene to protect a neighboring fee-payer's property, were right in watching the freerider's house burn to the ground.

Since then I've been convinced by conversation with some smart libertarians that the policy itself may be untenable. In short because fire protection is contingently — that is, in this instance — a non-excludable public good. In all but the most diffuse populations, government services really need to be geographically contiguous to be coherent. (Imagine a

pocket of ten non-fee-paying houses encircled by ten fee-paying houses. Would anyone — fee-payers or firemen — really want to let a blaze encompass all ten freeriders before acting?)

My moral argument hinged on a reasonable expectation that the free-riding homeowner would (or would be compelled to) reimburse the fire department for its costs after the fact. The argument from non-excludability suggests a policy that doesn't leave fire protection optional: Obion County should either levy a tax to pay for fire protection for all unincorporated lands, or South Fulton should cancel its opt-in service for unincorporated properties altogether. But neither argument forgives free-riding.

## Notes

<sup>1</sup><http://www.nationalreview.com/corner/248649/firefighters-watch-home-burns-daniel-foster>