

Art is Not Terrorism.

Stop Legal Proceedings Against Critical Art Ensemble



THE ISSUES

The issues here are fundamental: freedom of speech, freedom of expression and academic freedom. Many worry that the case could set a dangerous precedent by silencing a group of artists for work that stimulates vital public discussion. Many feel that with this case and others, the government was wildly overreaching its mandate to protect the public from terrorism, and now is attempting to save face by continuing the case.

THE CASE

Last month, the Joint Terrorism Task Force detained artist and University of Buffalo professor Steve Kurtz of the Critical Art Ensemble (CAE). They seized documents, computers, and equipment used in CAE's current project—a mobile DNA-extraction laboratory to test store-bought food for possible contamination by genetically modified grains and organisms. The seized materials were to have been exhibited as part of a show at the Massachusetts Museum of Contemporary Art. All of the materials are legal and commonly used for scientific education and research activities in universities and high schools; the New York State Commissioner of Public Health determined that the materials seized by the FBI *pose no public-safety risk*.

CRITICAL ART ENSEMBLE

CAE is a collective of internationally recognized artists who work in public, educational, academic and art contexts. For the past few years, their principal aim has been to help the general public to understand biotechnology. By making scientific research accessible to laypeople through participatory performance experiences, CAE aims to demystify what is safe and what is dangerous about today's biotech industry. CAE always undertake their work in a safe and considered way. The materials they use are strictly non-hazardous, can be legally obtained by anyone, and are commonly found in undergraduate-level biology labs. For more on CAE's projects please visit: www.caedefensefund.org.

THE BACKGROUND

Early morning of May 11, Steve Kurtz awoke to find his wife, Hope, dead of a cardiac arrest. Kurtz called 911. The police arrived and, after stumbling across test tubes and petri dishes Kurtz was using in a current artwork, called in the Joint Terrorism Task Force. Thus began an Orwellian stream of events in which FBI agents abducted Kurtz without charges, seized his manuscripts and art supplies, and even confiscated his wife's body. Like the case of Brandon Mayfield, the Muslim lawyer from Portland imprisoned for two weeks on the flimsiest of false evidence, Kurtz's case amply demonstrates the dangers posed by the USA PATRIOT Act coupled with government-nurtured terrorism hysteria. Within hours, FBI agents had "detained" Kurtz as a suspected bioterrorist and cordoned off the block around his house. (Kurtz walked away the next day on the advice of a lawyer, his "detention" having proved to be illegal.) Over the next few days, dozens of agents in hazmat suits, from a number of law enforcement agencies, sifted through Kurtz's house, impounding computers containing his entire life's work, books, equipment, and even his wife's body for further analysis.

FBI HARASSMENT OF ARTIST AND SCIENTIST CONTINUES

On June 8, Kurtz was arraigned and charged in Federal District Court in Buffalo on June 8 on four counts of mail and wire fraud (United States Criminal Code, Title 18, United States Code, Sections 1341 and 1343), which each carry a maximum sentence of 20 years in prison. The arraignment of Dr. Robert Ferrell, Professor of Genetics at the University of Pittsburgh, who was indicted along with Kurtz, has been postponed for a week for health reasons. The defendants were charged not with bioterrorism, as listed on the Joint Terrorism Task Force's original search warrant and subpoenas, but with a glorified version of "petty larceny," in the words of Kurtz attorney Paul Cambria. The laws under which the indictments were obtained are normally used against those defrauding others of money or property, as in telemarketing schemes. Historically, these laws have been used when the government could not prove other criminal charges. See www.caedefensefund.org for background and full text of the indictment. Under the arraignment conditions, Kurtz is subject to travel restrictions, random and scheduled visits from a probation officer, and periodic drug tests.

EMINENT SCIENTISTS CONFUSED AND ALARMED

A great number of people are wondering why this seemingly absurd case is still being pursued. "I am absolutely astonished," said Donald A. Henderson, Dean Emeritus of the Johns Hopkins University School of Hygiene and Public Health and resident scholar at the Center for Biosecurity of the University of Pittsburgh Medical Center. Henderson was awarded the Presidential Medal of Freedom by President Bush for his work in heading up the World Health Organization smallpox eradication program and was appointed by the Bush administration to Chair the National Advisory Council on Public Preparedness. "Based on what I have read and understand, Professor Kurtz has been working with totally innocuous organisms... to discuss something of the risks and threats of biological weapons--more power to him, as those of us in this field are likewise concerned about their potential use and the threat of bio-terrorism." Henderson noted that the organisms involved in this case--*Serratia marcescens* and *Bacillus atrophaeus*--do not appear on lists of substances that could be used in biological terrorism. (newstandardnews.net/content/?action=show_item&itemid=646) University of California at San Diego Professor of Design Engineering Natalie Jeremijenko noted that scientists ship materials to each other all the time. "I do it, my lab students do it. It's a basis of academic collaboration... They're going to have to indict the entire scientific community." Perhaps with such an outcome in mind, preeminent science magazine *Nature* has called on scientists to support Kurtz. "As with the prosecution of some scientists in recent years, it seems that government lawyers are singling Kurtz out as a warning to the broader artistic community.... Art and science are forms of human enquiry that can be illuminating and controversial, and the freedom of both must be preserved as part of a healthy democracy--as must a sense of proportion." (www.caedefensefund.org/press/CAEed.pdf)

FACE-SAVING MEASURE OR WARNING TO ARTISTS?

Some believe that the entire case is merely a face-saving tactic by the FBI. Others, like the editors of *Nature* quoted above, see the intent as much more insidious. "It's really going to have a chilling impact on the type of work people are going to do in this arena, and other arenas as well," noted Stephen Halpern, a SUNY Buffalo law professor who specializes in Constitutional law. Professors and staff from the University of California system express similar fears. "We are both extremely concerned and disturbed that the prosecution of

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