

Special Report

Federal prosecutors seek to indict art professor as a 'bioterrorist'

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June 15, 2004—Steven Kurtz may be an unconventional artist in the eyes of some but, in the Bush-created climate of paranoia about “terrorism,” the 46-year old art professor and a founding member of an experimental arts initiative faces the prospect of being indicted, under the USA PATRIOT Act, as a “bioterrorist.”

Gary Younge of the [Guardian](#) succinctly reported, “On May 10 Steven Kurtz went to bed a married art professor. On May 11 he woke up a widower. By the afternoon he was under federal investigation for bioterrorism.”

Today federal prosecutors convened a grand jury in Buffalo, NY, in an attempt to indict Kurtz for allegedly violating section 175 of the US Biological Weapons Anti-Terrorism Act of 1989, which has been expanded by the USA PATRIOT Act.

Kurtz's personal nightmare began in the early morning hours of May 11 when he awoke to find his wife of 25 years unresponsive. Kurtz, a professor of art at the University at Buffalo and a founder of the internationally acclaimed [Critical Art Ensemble](#) (CAE), called 911. The arriving paramedics, who found the 45-year old Hope Kurtz beyond their help, became alarmed at seeing petri dishes and scientific equipment in the Kurtz home and called local and federal hazardous material authorities, who forced Kurtz out of his residence and sealed it, and removed biological samples for testing.

In the ensuing panic, public health officials, the FBI and the suited-up FBI hazardous materials team FBI agents called in all turned a deaf ear to Kurt's explanation that the materials were part of a CAE exhibit. Even after the biological samples were tested and proved harmless and his house was deemed safe, in the days following, agents from the Joint Terrorism Task Force carted away his books, personal papers, computer and his work.

It even took Kurtz a week to retrieve his wife's body after an autopsy determined she died of cardiac arrest from natural causes, not anything in the Kurtz home. His house, car and cat, which also had been seized, were also returned to him.

The CAE bills itself as a “collective of artists dedicated to exploring the intersections between art, technology, radical politics and critical theory.” This is not conventional art in the sense of paintings or sculptures, but, according to member Claire Pentecost, art that uses “scientific processes to demystify them and make them accessible to audiences.”

Penetescost, in the [introduction to CAE](#) she wrote, said, “When the Joint Task Force on Terrorism searched Kurtz's home, he was in the midst of researching the issue of biological warfare and bioterrorism, to assess the actual danger these weapons pose and to bring U.S. policy on such threats into public dialogue. To do this research, he had many books on the subject and had legally acquired three bacteria commonly used as educational tools in schools and university biological departments. One might conjecture that these are the 'biological agents' indicated in the charges against Kurtz. They are bacillus globigii, serratia marcenscens and e.coli.” All are harmless substances.

Instead of apologizing to Kurtz and dropping the matter, federal prosecutors subpoenaed Kurtz, Pentecost and seven others, from around the country, associated with CAE to appear before a grand jury. The [Los Angeles Times today reported](#), "Justice Department lawyers are expected to argue to a federal grand jury in Buffalo today that what Kurtz viewed as artistic expression was a national security threat and that he should be indicted under the Patriot [sic] Act."

His crime? The US attorney in Buffalo wants to prosecute him under a USA PATRIOT Act provision that prohibits possession of "any biological agent, toxin or delivery system ... not reasonably justified by a prophylactic, protective, bona fide research or other peaceful purpose," the Times said.

Kurtz's attorney, Paul Cambria, told [The Scientist](#) that it is Kurtz's message the prosecutors are concerned about. "I know that because they're looking at past things that he's written and so on, and they're trying to use that to circumstantially show that he's some kind of terrorist, which is kind of ridiculous."

According to The Scientist, "Cambria said Kurtz objects to spending money on bioterrorism defense at the expense of the public health agenda of conquering natural killer diseases, and he opposes genetically modified crops that give the companies who create them a monopoly on selling them. Previously, Cambria successfully defended *Hustler* magazine founder Larry Flynt in the Supreme Court, and he won suits against municipalities that tried to block the performances of rock star Marilyn Manson."

If the grand jury goes along with this madness, no one is safe.

A [CAE defense fund](#) has been set up at to help Kurtz and the others to pay mounting legal expenses.