

Amateur Science, A Threat After All?
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A journalist from the German/French television station Arte recently asked me in a grave tone if I believed that artistic production constituted a new threat for the American government. I hesitated. My interviewer seemed to hope for a positive answer. Recent newspaper article headings concerning our case went through my head. "Art or Bioterror," "Buffalo Art Professor, a suspected bioterrorist," and "Ashcroft's War on Art, Sanitized for Your Protection." Titles such as these had kept us laughing over the past few months. They could temporarily lighten up a situation that was otherwise far from being funny. Inspired by the serious tone of the interviewer I took the time to reflect on recent events outside my personal involvement in the case, and its obvious link to the current American frenzy over the war on terror and stopping of free speech.

But lets talk about the story first:

Critical Art Ensemble (CAE), an American Artists collective founded in 1987, recently became the subject of an FBI investigation looking into allegations of bioterrorism. The collective has been developing projects addressing the politics of biotechnology for the past seven years. These projects take the forms of books, participatory performance and installation projects, and in many cases use scientific equipment as well as living non-pathogenic organisms. These items serve an pedagogical function, and help provide a context for the subject matters being addressed. In between public manifestations of the projects, the materials are usually stored in the member's homes and offices until their next usage. It was this fact, which led to the investigation described below.

The story began with a sad event. Hope Kurtz, one of the original members of Critical Art Ensemble died in her sleep of heart failure on the night of May 11th this year. Her husband and university professor Steve Kurtz called 911 after waking up next to his dead wife. The local police came to his house, searched the surroundings, and confiscated Hope Kurtz' body in order to determine the cause of her death. (After it had been cleared by the Erie County Medical Examiner, the FBI seized the body again and returned it a week later.) During their visit, the police took note of Critical Art Ensemble's mobile DNA extraction lab. The following day, Steve Kurtz was detained by members of the Federal Bureau of Investigation and representatives of the Special Task Force on Terrorism. Twenty two hours later Kurtz obtained a lawyer and was

free to go; however, he couldn't return to his house. It had been seized and sealed as a crime scene by the FBI. His house was searched for 36 hours, followed by three days of testing for biohazardous materials by the Erie County Department of Health. Six days after the beginning of these events, the house was cleared and returned to its owner. However, what appeared to be a misunderstanding and an overreaction by law enforcement authorities marked only the beginning of a longer story. The FBI seized Kurtz' laboratory equipment, computers, research and teaching materials (including his student's term papers), parts of his library, his passport, and personal documents. No indication was made if and at what point these materials would be returned. A week later, Steven Barnes, also a founding member of Critical Art Ensemble, and myself were served with federal subpoenas while preparing an art exhibition at the Museum of Contemporary Art in Massachusetts. The subpoenas ordered us to appear before a grand jury that was (and still is) conducting an investigation of possible violations of the law with respect to biological weapons as specified in the United States Code, Section 175, Title 18. This section of the law was amended and enhanced under the Patriot Act.

Art as biological weapons? Whereas this might seem like a stretch to any rational person, it certainly did not to the FBI. Over the course of the next six weeks a total of ten members and associates of Critical Art Ensemble, as well as university colleagues, and one of Kurtz' students were served with the same court orders. One exception was the subpoenaing of Critical Art Ensemble's publisher, Autonomedia—a mid-sized press based in New York City. As opposed to appearing in person, Autonomedia was asked to present all correspondence and business documents related to Critical Art Ensemble. The majority of the subpoenaed subjects exercised their fifth amendment right to remain silent to avoid self-incrimination, since they were not only witnesses to the case but also “subjects” of the investigation. Autonomedia's subpoena was “deactivated” after a letter of complaint was issued by the American Civil Liberties Union to the District Attorney. The District Attorney was unable to get the Grand Jury to indict Kurtz for bioterrorism; however, he did get them to indict Kurtz on mail and wire fraud charges by focusing on a technicality regarding the purchase of the wetware. When there is a desire on the part of the Feds to see a “target” in jail no matter what, mail and wire fraud charges are often used as a last ditch effort to prosecute. This is because the law is so general, and hence open to a broad scope of legal interpretation. In other words, anyone could be prosecuted under this statute if they have used mail or email. Along with

Steven Kurtz, Robert Ferrell, a leading molecular biologist at the University

of Pittsburgh and long time collaborator of Critical Art Ensemble, was indicted by the Grand Jury on the same mail and wire fraud charges. Kurtz and Ferrell face a maximum sentence of 20 years in prison if convicted. At the time of this writing, the investigation is ongoing, and none of the seized items have been returned.

As a long-term collaborator (although not member) of Critical Art Ensemble, I have been very involved in representing the case to the media, and have helped organize a defense fund initiative in collaboration with many of our friends, colleagues, and supporters. After the initial period of shock and trauma came to an end, we had numerous discussions regarding the case and its broader meaning and impact for artists, academics, and political activists. The message being sent by the government to these groups of people seems very clear: political dissent of any kind will be suppressed by all means available. The public expression of radical leftist ideas will be persecuted in a Neo-McCarthyist manner. However, what aspect of CAE's work could truly be perceived as a threat to the American government? What leads law enforcement agencies to continue this investigation in such a vigorous manner when in fact they know that they have made a mistake? One obvious reason is the FBI wanting to save face for squandering millions of tax dollars and limited law enforcement resources. FBI agents from six major cities had been sent to Buffalo in addition to the Department of Defense's Special Task Force on Terrorism. For 48 hours no case in the United States received more attention and resources than this one. The cost of the ongoing investigation must be in the millions at that point, and the press coverage critical of this fiasco is extensive. They had to do something, and decided that mail and wire fraud charges could possibly justify their total overreaction. In addition, an investigation of this kind serves as a nice umbrella for additional intelligence gathering. The attempt to obtain Autonomedia's business records (including the names of people who had bought CAE's books) presents a strong case for that.

In 1995 CAE stated: "...after all, science is, for better or for worse, the master system of knowledge in secular society." Clearly, this statement indicates why CAE elected to make an exploration of science within its political context one of their chief concerns, and launched their first biotech project and book *Flesh Machine* shortly thereafter. A couple of years later, the group (in collaboration with Faith Wilding and Paul Vanouse) created the *Cult of the New Eve*—a participatory performance project that takes an ironic stand on the overblown utopian rhetoric of the Human Genome Project, and the often unquestioned authority of science as an institution. Recently, the group developed a

series of projects (in which I served as a major collaborator) exploring the possibilities of an amateur science, in which non-experts are encouraged to actively engage with the materials of the life sciences in order that they might get some direct experience with them. Built on the idea of an amateur science is CAE's model of Contestational Biology. This model suggests that the public can appropriate scientific practices, and use them for resistant purposes. In sum, CAE is not only contributing to a critical discourse surrounding the applications and uses of biotechnology, but is also suggesting ways in which the general public can become a part of questioning, using, and acting within the institution of the life sciences itself. This model for public intervention is partly accomplished by providing tactical solutions (such as biochemical interventions that can protect the environment against genetic pollutants) that can easily be replicated and initiated by other interested individuals and groups struggling against molecular invasion.

A second problem has been to show that the Life Sciences are not objective and neutral; rather, they are politically charged and therefore biased against knowledge and technologies that do not reinforce their own interests and those who fund the research. In a capitalist system, an institution with the power and influence of life sciences is better kept under skeptical public scrutiny. An empowered, self-educated public, can help in keeping scientific policy and initiatives within the democratic process, and not solely in the hands of specialists and investors. Critical Art Ensemble's proposed model of the Amateur Scientist Citizen is breaking with the past and represents a radical shift that opens scientific institutions to the public to an extent that the citizens can make use of the knowledge, materials, processes of science in a manner that is in their own interest. In addition, CAE's work reveals to participants the corporate and militaristic political directives that often guide or pressure scientific research.

Considering the above, could CAE's work be perceived as a serious threat to an authoritarian capitalist system, which relies on public ignorance and knowledge distribution through controlled channels like the one reigning the US at this point in time? It could indeed. I should have answered my interviewer's question in a manner that was as grave as his tone and with the affirmation he expected.

Critical Art Ensemble's work can be viewed at:

www.critical-art.net

For more information regarding the FBI investigation please look at:

www.caedefensefund.org