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FROM CALIFORNIA AND BEYOND

FBI tracking videotapers as terrorists?



Video provided by the United States Humane Society shows a Chino, Calif., slaughterhouse worker prodding a downer cow with a forklift, an act that helped spur an overhaul of the state's animal welfare laws. Animal rights groups are under attack for using such images as part of their investigations into alleged animal abuse. New documents suggest that some such investigations may violate animal enterprise terrorism laws. (AP/Humane Society of the United States)

By Dean Kuipers

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The [FBI's Joint Terrorism Task Force](#) has recommended for many years that animal activists who carry out undercover investigations on farms could be prosecuted as domestic terrorists.

[New documents](#) obtained through a Freedom of Information Act request by activist Ryan Shapiro show the FBI advising that activists – including Shapiro – who walked onto a farm, videotaped animals there and “rescued” an animal had violated terrorism statutes.

The documents, which were first published on Will Potter’s website, [Green Is the New Red](#), were issued by the Joint Terrorism Task Force in 2003 in response to an article in an animal rights publication in which Shapiro and two other activists (whose names were redacted from the document), openly claimed responsibility for shooting video and taking animals from a farm.

The FBI notes discuss the videotaping, illegal entry and the removal of animals, then concludes with “there is a reasonable indication that [Subject 1] and other members of the [redacted] have violated the Animal Enterprise Terrorism Act, 18 USC Section 43 (a).”

Curiously, the name of the act seems to be an error; the act was called the Animal Enterprise Protection Act until 2006, when it was largely superseded by an act called the Animal Enterprise Terrorism Act. The crime named in the original 1992 act, however, was always called terrorism. The penalties for such a conviction can include terrorism enhancements which can add decades to a sentence.

Later, in 2004, Shapiro and a colleague, Sarahjane Blum, working as a group called Gourmet Cruelty, were prosecuted for a different but similar act in which they walked onto a foie gras farm, videotaped the operation and took a few ducks. They were prosecuted for felony burglary and pleaded to misdemeanor trespassing.

“Sarahjane and I and everyone with Gourmet Cruelty – the undercover investigation and especially the open rescue were acts of civil disobedience,” said Shapiro by phone. He is currently a doctoral candidate in the Department of Science, Technology and Society at [MIT](#). “We openly took credit for the things that we were doing in order to expose the horrific cruelty on factory farms and to educate the public about it. So a trespassing charge seemed like a perfectly reasonable price to pay.”

“However, it’s simply outrageous to consider civil disobedience as terrorism,” Shapiro adds. “Civil disobedience is not terrorism. It has a long and proud place in our nation’s history, from [Martin Luther King](#) to [Occupy Wall Street](#), and the AETA takes that kind of advocacy that we celebrate from the civil rights movement and turns it into a terrorist event.”

The FBI declined to comment on the documents, though a public information officer did point out that "the FBI cannot collect or retain information on pure 1st Amendment activities unless the collection is pertinent to a legitimate law enforcement activity." Which would indicate that it is the trespassing and theft of animals that would cause the bureau to open a file. But activists and their attorneys are unsure of this interpretation.

Undercover investigations have been a mainstay of activist work, whistleblower activity and even journalism since before the days of [Upton Sinclair](#) and his landmark 1906 work about the meatpacking industry, "The Jungle."

"Some of these investigations don't even break state laws," says Rachel Meerpol, an attorney with the Center for Constitutional Rights who is representing Shapiro in a constitutional challenge of the AETA. "It's possible to gain undercover footage lawfully. The way the FBI is interpreting this law would allow for prosecution of completely lawful, valuable advocacy efforts as an act of terrorism. It's an issue of public safety as well as animal cruelty. It's such a waste of time and resources for the FBI to be spending money investigating folks involved in this work."

State legislatures, however, are also getting into the act. Florida, Iowa, Minnesota and New York all tried to pass bills specifically outlawing photographing and videotaping animal enterprises in 2011, but failed. Florida state Sen. Jim Norman has already reintroduced his bill, SB1184, for 2012, which is more of an omnibus bill but still contains the prohibitions against recording farm operations.

Potter, who has looked into these state laws in more detail, points out, "There's no shortage of laws that could be used to prosecute someone who is trespassing or someone who is vandalizing property in the process of an investigation. But these new laws are specifically aimed at mainstream animal rights and environmental groups who investigate abuse, such as the Humane Society, Mercy for Animals and [PETA](#)."