

Monday, January 23, 2012

Animal Enterprise Terrorism Act Threatens Activism

11:01 AM ET

JURIST Guest Columnist [Will Potter](#), an independent journalist who specializes in the topic of eco-terrorism, says the Animal Enterprise Terrorism Act classification of activists as terrorists threatens to end activism, in part to stem corporate profit loss...

A recent undercover investigation into one of the nation's largest egg producers, Sparboe Farms, documented hens mangled in cage wire, many with open wounds, and chicks having their beaks burned off by workers. This is just one of many investigations by animal welfare advocates that have exposed standard industry practices, created national dialogue about factory farming and in some cases prompted criminal charges. [Newly released FBI documents](#) show that the government is less concerned about these abuses and more concerned about the economic loss caused to businesses. The FBI has also been keeping files on factory farm investigators, and recommends prosecuting them as terrorists.

It may come as a shock to most people to learn of potential terrorism charges for investigators who, at worst, have trespassed or rescued a few injured animals. Yet, this is merely the latest chapter of a long-running campaign. I have documented how corporations created the term "eco-terrorism" in the 1980s and then used public relations campaigns, congressional hearings and ambitious court cases to manufacture what the FBI calls the "number one domestic terrorism threat."

Perhaps the most dangerous tactic employed by corporations has been the manipulation of [post-9/11](#) fears to enact designer terrorism legislation. Foremost among these new laws is the [Animal Enterprise Terrorism Act](#) (AETA). The act was passed in 2006 at the request of the National Association for Biomedical Research, Fur Commission USA, GlaxoSmithKline, Pfizer, Wyeth, United Egg Producers, National Cattlemen's Beef Association and many other corporations and business groups that have a financial stake in silencing animal rights activists.

The AETA expands the definition of "animal enterprise terrorism" in [18 USC § 43](#). Its sweeping language criminalizes "interfering with" the operations of an animal enterprise,

instilling a "reasonable fear" in those who are protested, and causing a "loss of profits." The scope of the law is widened further through its emphasis on "tertiary targeting." It not only protects animal enterprises, but also any business that does business with an animal enterprise.

In response to civil liberties advocates and in implicit recognition of the vague language, supporters of the bill included a paragraph noting it does not "prohibit any expressive conduct ... protected from legal prohibition by the First Amendment." While it is true that the AETA does not explicitly outlaw protest, saying "This is Constitutional" does not make it so.

The true threat of the law is the fear it has created. This chilling effect on First Amendment activity is at the core of a new lawsuit brought by the Center for Constitutional Rights, [Blum v. Holder](#) [PDF], filed on behalf of five longtime activists who say the vague, overly broad language of the AETA has made them think twice about using their rights. One of the plaintiffs, Ryan Shapiro, is now a doctoral candidate at the Massachusetts Institute of Technology. He uncovered the FBI file discussed previously through a Freedom of Information Act request. Shapiro once participated in undercover investigations; he stopped after the passage of the AETA. He says this file — which lists him by name — and other prosecutions confirmed his fears of being prosecuted as a terrorist.

The industries targeted have countered that the AETA is no different from hate crime legislation targeting the Ku Klux Klan. "It's always been possible to punish those who burn crosses, deface houses or otherwise harass people on the basis of race, religion or sexual orientation," Dan Murphy [wrote](#) in Dairy Herd. "But often, the small fines and minimal jail terms prescribed by trespassing and property damage statutes don't fit the egregious nature of the offenses."

To most reasonable people, the offenses by factory farms are much more egregious than the act of videotaping them. The purpose of the AETA is not to fulfill a legal void, as supporters claim. Animal rights activists have never committed physical violence against a human being, which is but one trait that makes a comparison to hate crimes so offensive and desperately overreaching. The crimes they have committed, such as trespassing and theft, are already crimes. When it comes to the extreme crimes of underground groups, like the Animal Liberation Front, reclassifying them as "terrorist acts" does not deter the groups. According to a [Justice Department report](#) [PDF], animal rights crimes were actually on the decline until the passage of "animal enterprise terrorism" legislation, then they spiked.

The purpose of the AETA is to deter aboveground activists like Shapiro by leveraging the power of fear. Exposés by national groups like the Humane Society of the United States,

Mercy for Animals, and PETA have rattled these industries to their core in a way that vandalism or arson never could. Animal enterprises are trying to deflect scrutiny, and hope to use the War on Terror to scare their opposition into submission.

Regardless of how one feels about animal rights or animal rights activists, the targeting of political activists as "terrorists" because they cause a loss of corporate profits sets a dangerous precedent. [Occupy Wall Street](#), for example, clearly is focused on challenging corporate power and has utilized a diversity of tactics currently classified as "animal enterprise terrorism," including non-violent civil disobedience and home demonstrations. If this legislation is not overturned, it will be the blueprint for targeting all protesters that pose a threat to business as usual.

Will Potter is an award-winning independent journalist based in Washington, DC. His reporting and commentary have appeared in the Los Angeles Times, Mother Jones, the Vermont Law Review, and he has testified before Congress. His book, [Green Is The New Red: An Insider's Account of a Social Movement Under Siege](#), was awarded a Kirkus Star for "remarkable merit" and named one of the best books of 2011.

Suggested citation: Will Potter, *Animal Enterprise Terrorism Act Threatens Activism*, JURIST - Hotline, Jan. 24, 2012, <http://jurist.org/hotline/2012/01/will-potter-aeta-terrorism.php>.

This article was prepared for publication by [Leah Kathryn Sell](#), an assistant editor for JURIST's professional commentary service. Please direct any questions or comments to her at professionalcommentary@jurist.org

Opinions expressed in JURIST's Hotline are the sole responsibility of their authors and do not necessarily reflect the views of JURIST's editors, staff, or the University of Pittsburgh.

© JURIST Legal News and Research Services, Inc., 2011. JURIST is a 501(c)(3) non-profit organization. E-mail inquiries, changes, news tips, URLs, corrections, etc. to JURIST@pitt.edu. This site is not an official site of the University of Pittsburgh. The University of Pittsburgh is not responsible for its content. Nothing on this site is intended as legal advice. If you have a legal problem, please consult an attorney. JURIST news tickers powered by Yahoo! News.

[Link](#) | how to [subscribe](#) | © [JURIST](#)