

The Big Chill

Will the terror label stifle activism?

By Camilla Mortensen



Are you a terrorist?

Exactly who a “terrorist” is has become a little confusing lately. A federal judge ruled this month that a couple of South Eugene High School graduates who burnt buildings but never physically hurt a person fall into that category, as would protestors who blocked entrance to a circus or a rodeo.

FBI “consensual recordings” for Operation Backfire – the Bureau’s name for the investigation into environmentally motivated arsons in the Northwest – included names of local activists engaged in above-ground attempts to stop logging in national forests. In the recordings, some of which took place in Eugene, the “consent” in “consensual” was on the part of the person wearing the recording wire, Jake Ferguson, not on the part of the people he spoke to, who included passersby and at least one child in addition to the Backfire defendants.

However, those people have no way of knowing if the mention of their names in those recordings is enough to deem their activities “related to terrorism.”

Is your name one of the approximately 325,000 names on the “Consolidated Terror Watchlist” maintained by the FBI’s Terrorist Screening Center (TSC)?

If your name is on the watchlist and has been entered into the Terrorist Screening Database (TSDB), you won’t know about it. According to the FBI website, “the TSC cannot reveal whether a particular person” is in the database.

Under Homeland Security Presidential Directive 6 signed by President Bush in September 2003, the TSC was created to provide what the FBI calls on its webpage “one-stop shopping” for “an airport screener, an embassy official issuing visas overseas, or a state or local law enforcement officer on the street” to find and track supposed terrorists.

The TSC will not reveal how it got all the names. Some came from the FBI, some from the CIA and a number of other federal agencies. And some, according to a 2006 article in the *Washington Post*, may have come from warrantless wiretaps on U.S. citizens.

In order to be included on the list, you must be “known or appropriately suspected to be or

‘There is a serious danger of a chilling effect on political speech and acts of civil disobedience.’

— Alejandro Queral of the Northwest Constitutional Rights Center

and John Ray referred to the arsons at Romania Chevrolet, Vail, the Cavel West horse slaughter plant and others as actions.

Activists and others used the phrase “direct action” to refer to pressure on a government entity, business or community that is directly effective, as opposed to actions through constitutional processes. Such processes, such as elections, take longer and are more indirectly effective.

A direct action might be anything from a tree-sit to a sit-in to a release of laboratory animals. The term “direct action” originated with the labor movement in the early 1900s. Union strikes were, and are, a form of direct action.

Local activist Janine Nilsen has worked to stop old-growth logging both by negotiating with the Forest Service and timber companies and by aiding tree-sits. She said her participation in direct actions like tree-sits comes when “we aren’t getting our voices heard.”

In Martin Luther King Jr.’s “Letter from Birmingham Jail,” he wrote, “nonviolent direct action seeks to create such a crisis and foster such a tension that a community which has constantly refused to negotiate is forced to confront the issue. It seeks so to dramatize the issue that it can no longer be ignored.”

But according to John E. Lewis, deputy assistant director of the FBI’s Counterterrorism Division, “‘direct action’ generally occurs in the form of criminal activity designed to cause economic loss or to destroy the victims’ company operations or property.”

Would King then be considered to be a terrorist in today’s political climate? The participants in the Boston Tea Party? Some say that under AETA even Oprah Winfrey might be a terrorist.

Oprah, AETA and the Terrorism Enhancement

In 1996, Winfrey ran a 10-minute segment on her show on the beef industry and mad cow disease. During that segment she spontaneously said, “It has just stopped me cold from eating another burger!”

Winfrey was promptly sued by the Texas Beef Group, which claimed the ensuing \$12 million drop in cattle prices was a direct result of her broadcast.

Winfrey was found not liable, but Eugene civil liberties attorney Lauren Regan wonders if Oprah could now be deemed a terrorist under the Animal Enterprise Terrorism Act (AETA).

An offense under the AETA is one that “intentionally damages or causes the loss of any real or personal property (including animals or records) used by an animal enterprise, or any real or personal property of a person or entity having a connection to, relationship with, or transactions with an animal enterprise.”

‘We all know who the the real terrorists are — the whole world does. The only people who seem not to are the judges and the court system.’

— Tim Lewis, videographer and co-founder of Eugene CopWatch



have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism.”

Precedents such as the recent “terrorism enhancement” given to the Operation Backfire arsonists set the stage for any number of political actions to be deemed terrorism. Recent laws such as the Animal Enterprise Terrorism Act (AETA) do the same. Many activists wonder if the terror label will have what Alejandro Queral of the Northwest Constitutional Rights Center called a “chilling effect on political speech and acts of civil disobedience.”

Action is to Arson as Activism is to Terrorism

During the sentencings of the 10 arsonists in the Operation Backfire case, the prosecution repeatedly equated the word “action” to “arson.” U.S. Attorneys Kirk Engdall, Stephen Peifer

The act refers to “economic damages” repeatedly. So, according to Regan, AETA “really does punish words and free speech” if words like Winfrey’s could be proven to affect a corporation’s profits.

“The government, legislators and the prosecutors are all in business to protect corporations,” Regan said.

The prosecutors in the Operation Backfire sentencings opened their arguments in favor of the terrorism enhancement by stating, “This is not a political case.” Judge Ann Aiken said, as she applied the terrorism enhancement, “This is not meant to label you a terrorist.”

A press release from the District of Oregon’s U.S. Attorney’s Office included this statement from Attorney General Alberto R. Gonzales: “Today’s sentence is a fitting culmination to the largest prosecution of environmental extremists in U.S. history. These defendants were