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When Big Brother Eats Pizza at Your House

By Amanda Ripley

On May 11, 2004, Steve Kurtz awoke to find his wife Hope dead in their bed. But that was only the beginning of his ordeal — within hours, he found himself at the center of a bioterrorism investigation even Kafka would have dismissed as too paranoid a tale to be believed. Kurtz called 911 after he saw that his wife wasn't breathing. Paramedics rushed to the couple's three-bedroom home north of downtown Buffalo, and police soon followed.

For hours, detectives questioned Kurtz about how Hope, 45, had died and about the beakers, bacteria and lab equipment he had on a table upstairs. Kurtz, a 50-year-old art professor at SUNY Buffalo who looks more like a high school A/V club member, with long, brown hair tucked behind his ear and a wide, toothy smile, says he explained that his own art work specializes in "bioart," an ultramodern blend of science, technology and art whose medium is living matter, such as cells. He and his wife, also an artist, used the lab equipment for their work, including a project on how governments manipulate public fear of bioterrorism.

Kurtz says he showed the police catalogs of his past exhibits, including one on genetically modified plants at the Corcoran Art Gallery in Washington, D.C. "I told them, I am a professor. Please call my boss and confirm this with her," says Kurtz. After the medical examiner told the police that Hope's cause of death was not strangulation, as officers had initially speculated (her death would be ruled heart failure), the police left.

The next day, however, FBI agents showed up at the house, and Kurtz allowed them to search him, his home and his car. When he told them he had to go to the funeral home to make arrangements, the agents drove him there. When he arrived, an apologetic funeral home director told him that the body was gone. The FBI had redirected it back to the morgue for further analysis.

So began one of the more surreal errors in post-9/11 America. Agents from a rainbow spectrum of agencies occupied Kurtz's home for several days, blocking off his street and setting up a biohazard shower to hose down investigators leaving the residence. ([click here](#) for a video about the raid created by Kurtz's art ensemble.) Agents would not let Kurtz retrieve his cat, Bean. Having lost his wife, his home and his pet in the span of 48 hours, Kurt

decided to get a lawyer. He told a friend at one point, "I just need to pretend Hope is alive so that I can get through this."

The FBI confirms much of Kurtz's account, but stresses that the situation was far from clear-cut when agents arrived on the scene. "He had a working microbiology lab in his home. He did not have an art exhibit in his home. We also had a dead body," says Maureen Dempsey, spokesperson for the Buffalo field office of the FBI. "We didn't know what was in there. That's why we had to cordon off the house." The bacteria that Kurtz had in his house had been used in the past to simulate dangerous bacteria for research purposes — which was exactly why Kurtz wanted it for his own work. But that, too, raised questions for law enforcement.

Kurtz and a colleague were eventually charged with mail and wire fraud connected to the way they had purchased bacteria for one of Kurtz's projects. The indictment made no mention of terrorism. This spring, after the case made headlines, and artists and activists raised \$300,000 for his defense, a U.S. District Court judge threw out the indictment, calling it "insufficient". The U.S. Attorney's office in Buffalo announced in June that it would not appeal.

The lessons of the ordeal, says Kurtz, is that "if you have hundreds of thousands of dollars, good lawyers, four years and total innocence, you might get some justice from the system."

Now, in an unusually constructive response to a federal investigation, Kurtz and a group of artists have created "Seized," a small but mesmerizing exhibit made out of the refuse, scraps and assorted detritus that FBI agents left inside and outside of his house. "I started thinking," says Kurtz, remembering the day he returned to his house after the raid, "they went through my trash, so maybe I'll go through theirs."

The exhibit, at Hallwalls Contemporary Arts Center in Buffalo through July 18, begins with a case stuffed with yards of yellow police tape and centers on a tower of about 20 empty pizza boxes. The pizza tower is surrounded by hundreds of empty Gatorade and water bottles and festooned with a disposable haz-mat suit, rubber gloves and unused collection jars. On the wall are a framed half-smoked cigar and a scribbled to-do list ("Sign warrant").

FBI spokesperson Dempsey points out that the pizza boxes and most of the rest of the trash were left in garbage bags outside of Kurtz's house. And during the search, all food was consumed outside of the house. "We had to order food," she says. "When you have a federal search warrant, you can't just take a lunch hour. The judges wouldn't appreciate it." And the cat? "We gave the cat food and water the whole time we were there."

Bean the cat was recovered — and has since moved away. "We took him to Canada, where he'd be safe," says Kurtz, smiling. The exhibit will probably move to Berlin and New York City next. And it may grow. Kurtz and his attorneys are still fighting to get back the three computers, 25 books and assorted lab equipment the government seized four years ago. The FBI says those items will be returned after the normal paperwork process is complete.

The FBI had no comment, artistic or otherwise, on the exhibit itself. Spokesperson Dempsey has not seen it, nor has the lead agent on the Kurtz case. And, she says, he has no plans to do so.

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