

Scare Tactics, Counter-terror and Law Enforcement

The Kristina Berster Case

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Preventing violence. It's a basic goal of law enforcement, and if the methods are legal and ethical, actions intended to prevent potentially violent activities raise few fundamental questions. But when governments go beyond that, when they target people or groups for their views, associations, or criticisms of government policies, they cross the constitutional line.

In a 1969 US Supreme Court case, *Brandenburg v. Ohio*, the majority made it clear: The government can't legally "forbid or proscribe advocacy of the use of force or law violation except where such advocacy is directed toward inciting or producing imminent lawless action and is likely to incite or produce such action." In other words, without a "clear and present danger," suppressing speech and punishing people for their associations are out of bounds. By the time that ruling was issued, however, the federal government of the United States had been engaged in a covert program directed at domestic targets for years. In a 1976 report by the US Senate Select Committee to Study Government Operations, the program known as COINTELPRO was described as "a sophisticated vigilante operation aimed squarely at preventing the exercise of First Amendment rights of speech and association, on the theory that preventing the growth of dangerous groups and the propagation of dangerous ideas would protect the national security and deter violence."

The dubious premise, explained the report, was that law enforcement must "do whatever is necessary to combat perceived threats to the existing social and political order."

Possibly on those grounds, but clearly at the instigation of certain major corporations, the intelligence community actively infiltrated and spied on anti-nuclear activist groups in the late 1970s. By then I was already worried about the loose and misleading use of the word "terrorist." But until I met Kristina Berster I had no idea just how far so-called anti-terrorist "preparedness" could go.

On July 3, 1978, my son Jesse was born, the most life-altering moment I'd ever experienced. Two weeks later, just back from a week covering stock car racing in Vermont, I heard that someone had been arrested crossing the border from Canada. The newspapers were calling her a terrorist.

The public first heard about Kristina Berster on July 20, about four days after her arrest. Attempting to cross into the US on foot, she'd become lost and been nabbed by a Customs agent. At first, the FBI knew only that she was a West German citizen wanted for something called "criminal association," a crime that did not exist in the US. The source of the charge was her previous membership in a radical therapy group, the Socialist Patients Collective. According to German authorities, some of its members may later have joined the notorious

Red Army Faction, also known as the Baader-Meinhof group, a radical underground dedicated to armed struggle.

This stale, circumstantial evidence was enough to launch a nationwide terrorist scare. For FBI Director William Webster the arrest was a chance to buttress his claims that urban terrorism was on the rise, part of a push for more agents and expanded authority to investigate citizens who were “reasonably believed” to be involved in “potential” terrorist activities. So far, the requests had been denied. Instead, criticism of the Bureau was mounting as Congress discussed a charter to define and limit its activities.

Webster’s July 20 press conference had a simple purpose: to announce that a foreign terrorist had been caught in a conspiracy with US citizens. Break out the duct tape! His remarks stopped short of calling Berster a member of Baader-Meinhof, but Bureau’s press spokesmen quickly contacted their favorite reporters as off-the-record sources to provide additional details. The next morning newspapers across the country spread the news in bold headlines

Some accounts even printed an agent’s speculation that Berster had come to Vermont in order to assassinate the president of BMW. After all, he was planning a visit to Rutland.

One of the first Vermont reporters contacted was Burlington Free Press reporter Mike Donoghue, who had excellent police contacts. He received a wake up call about the arrest early on July 20 and ripped some AP copy that directly called her a Baader-Meinhof member. When I asked him about the source of his story, Mike declined to say. But the managing editor of another Vermont daily, The Rutland Herald, revealed that FBI press officer Tom Harrington had fed the information to his reporter.

Harrington denied it. “We didn’t put her with any group,” he claimed. Nevertheless, most US newspapers that day called her a terrorist, using that loaded word without much hesitation. But the ruse could be maintained only for a short time. A week later, another FBI press official issued a low-key retraction. Although barely noticed, that statement admitted the Bureau had no evidence that Berster was a terrorist.

The change in position had been forced on the FBI after West German officials issued their own statement, calling her a “fringe figure” whom they might not bother to extradite. In any case, she was now an illegal alien facing federal conspiracy charges.

By then I had become embroiled in the case. Several friends had formed a defense committee, and, in early August, I visited the Albany lockup to speak with the “terrorist” in person. What I heard was a tale of persecution and flight. The resulting cover feature was published in the “back to school” issue of the new Vermont Vanguard Press. The cover photo showed an intense young woman in shackles under heavy guard.

“Was Kristina Berster Tried and Convicted by a Prejudiced Press?” asked a cautiously provocative headline inside, above an investigative report that shared her side of the story and examined both the FBI’s “disinformation” operation and the media’s distribution of the distorted story.

But the Vanguard’s editor was worried that we might be going too far, and decided to hedge his bet with a disclaimer. Describing me as a member of the Defense Committee (not actually true), he noted that my story raised questions about “objectivity and conflict of

interest.” Fortunately, he concluded that objectivity is a myth, and that my “pro-Berster sentiments” did not prevent me from doing my job.

Still, my credibility was on the line and the FBI’s manipulation of the media had proven effective. Kristina Berster might be technically innocent until proven guilty, but in the eyes of the public she was a terrorist until proven otherwise.

Greg Guma’s new novel, *[Dons of Time](#)*, which looks at the dangers of the surveillance state, will be released in October by Fomite Press. In the next chapter of this story: Kunstler comes to court, Berster takes the stand
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