

The Insider

Personally speaking

Lynn Hershman Leeson

The artist on trial for owning a Petri dish

On 11 May, 2004, Steve Kurtz woke to find that Hope, his wife of 27 years, wasn't breathing. So he called 911. When the medics and police arrived, they saw some of the artwork that the Kurtzes had been preparing for a show at the Massachusetts Museum of Contemporary Art. Their plan was to set up a mobile lab so that people could test supposedly 'organic' food for genetically modified content. The equipment was ordinary enough – pipettes, test tubes, the kind of stuff you can find in most high schools or buy in supply stores or on the internet.

Steve is an internationally exhibited American artist, an associate professor at the University of Buffalo. He was a founding member, with Hope, of the Critical Art Ensemble, which stages 'science-theatre' events to demonstrate, and demystify, basic scientific processes.

Apparently, the Kurtzes had some Petri dishes containing harmless bacteria cultures, which they had used for several of their projects, and this alarmed the police. Steve explained that these materials had been displayed in museums and galleries throughout North America and Europe and showed the police the documentation. He even tasted the bacteria to prove they were harmless. But the police called the FBI, who then called Homeland Security and, a few days later, Steve's home was raided at gunpoint by scores of federal agents in hazmat suits.

Hope had died by now. The agents confiscated her body from the county coroner, who had already ruled that she had died of natural causes. They also confiscated the Kurtzes' computers, their research and materials for their art projects, a book manuscript, and even their cat. Steve was detained on suspicion of bioterrorism and having weapons of mass destruction. But after a million-dollar investigation failed to show any evidence, the charges were changed to 'wire fraud' and 'mail fraud' – because of the methods by which he had allegedly received the bacteria samples. Steve had called his friend, Dr Robert Ferrell, a human geneticist, and asked him to send the bacteria. The government claims that when Ferrell used his contract with the University of Pittsburgh to buy the samples from the American Type Culture Collection, which he then gave to Steve, this 'defrauded' the university and ATCC. Under the USA Patriot Act, wire and mail fraud carry a sentence of up to 20 years in prison.

People in the art world knew about what had happened almost immediately. Everybody thought the charges would be dropped, that it was a mistake; but they weren't. It's the strangeness

of the culture we're living in, in which privacy is erased, our rights are compromised, civil charges can be construed into criminal charges, and there's no habeas corpus, that made me feel I had to do something. I dropped everything I was working on to make a film, *Strange Culture*.

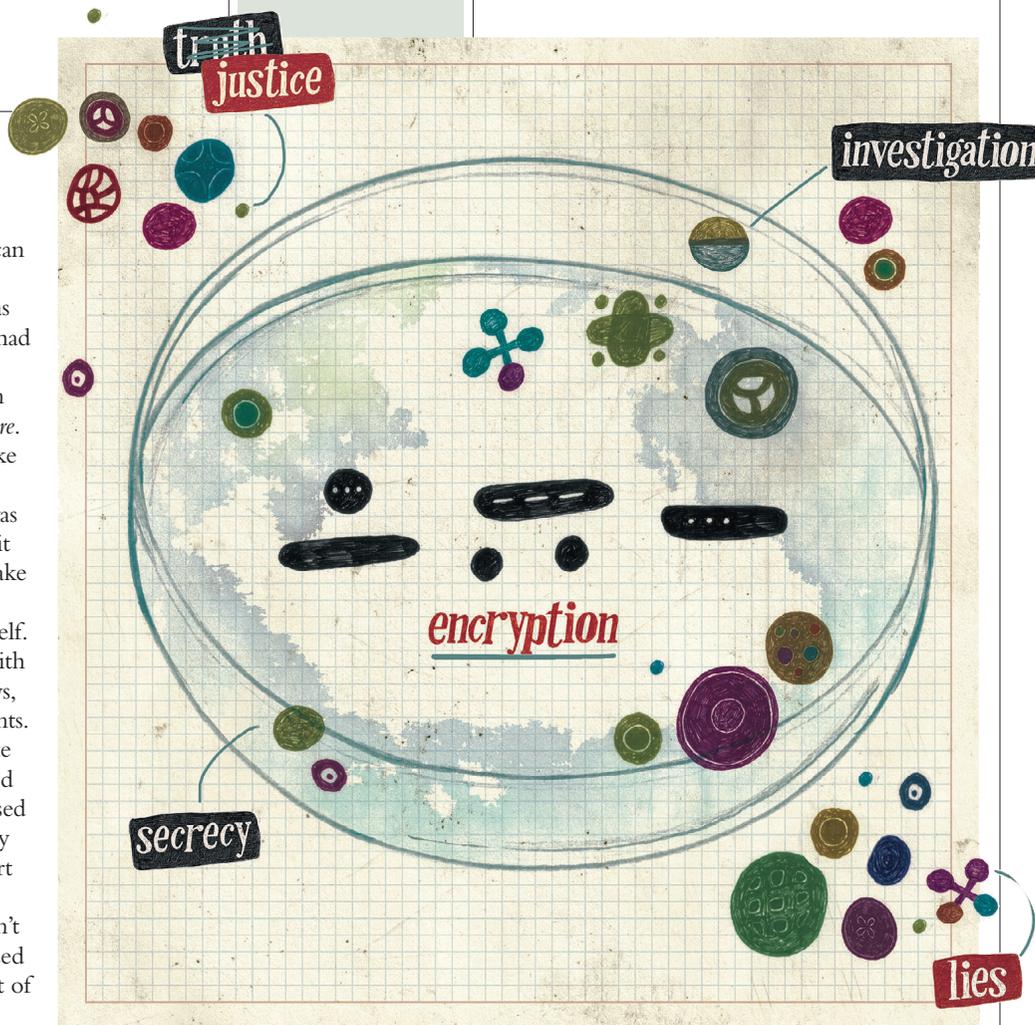
Originally I wanted to make a DVD to send to people, to make them aware of what was going on. Then I submitted it to festivals and it started to take off on its own.

The film virtually made itself. It's a hybrid documentary with animated portions, interviews, testimonials and re-enactments. The actors were so passionate about their ideas, and so good at articulating them, that I used a lot of what would normally be considered outtakes as part of the film.

It was done in a year. I didn't wait to raise any money: I used a mini-DV camera, and most of the people worked for free. Some people knew about the case already, including The Residents, who did the music. I see this as a kind international collage, because people started sending me things that they had already done. The cartoons that appear in the film were done in Canada, by an MIT graduate who had produced a strip when he heard about Steve's case. People sent me footage of demonstrations, interviews, press conferences, because they wanted to get the word out. I got things from Germany, from England, from New Jersey, from Chicago, all over the world. I remember in about 1976 talking to Dennis Hopper, and he said that films in the future could be done on your living-room table, and everybody thought he was crazy. I edited the film on my Mac, in my kitchen.

Originally, Steve didn't want Hope represented in the film; but then he said if anyone was to represent her, he would like it to be Tilda Swinton, because his wife admired her. And then Tilda said she'd do it. The other person charged, Robert Ferrell, had given me an interview, but he had had a stroke because of the pressure of the case and couldn't talk. So Peter Coyote agreed to read a transcript of the interview.

I think art is an encryption process. At the



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moment there's generally a repressive atmosphere, one of self-censorship, of people being afraid; especially with the signing of the Military Commissions Act, by which people can be indicted without evidence, so they can't defend themselves, can't have a trial. But at the start of most wars there's been great art: 1939 was the best year for films, with *The Wizard of Oz* and *Gone with the Wind* and so many others. Artists always fight back through their work and find a way to say the things they have to say.

It looks as if Steve will stand trial next year. When a defendant challenges anything about the terms of the prosecution, he or she loses the 'right to a speedy trial', which is why this case has dragged on for 3½ years. A lot of people told me not to make the film, to wait until we find out what happens. But this could go on for 20 years. From my perspective, whatever happens to Steve is secondary to what has happened to him already.

For more information on the case and for details of screenings of the film, go to www.caedefensefund.org or www.strangeculture.net. The artist and film-maker Lynn Hershman Leeson was talking to Horatia Harrod

ILLUSTRATION BY BARRY FALLS