

# Green Scare .org

**Illuminating the New War on Dissent**

Daniel McGowan, United States Attorney's Office, etc.

2008

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# The Website Menu

*News and Updates*  
*Green Scare Addresses*  
*Events and Benefits*

# The Website Sidebar

## *The Green Scare:*

- Operation Backfire
- SHAC 7
- Rod Coronado
- Jeff Luers
- Eric McDavid
- Peter Young
- Tre Arrow
- *Grand Juries*

## Support Indictees:

- *Support Briana Waters*
- *Support Eric McDavid*

## and Political Prisoners:

- *Jeff Luers*
- *Josh Harper*
- *Kevin Kjonaas*
- *Lauren Gazzola*
- *Jake Conroy*
- *Darius Fulmer*
- *Tre Arrow*
- *Jonathan Paul*
- *Nathan Block*
- *Joyanna Zacher*

## Other Resources:

- *Portland Indymedia*
- *Civil Liberties Defense*
- *Olympia Civil Liberties*
- *EcoPrisoners.org*
- *Green is the New Red*
- *Bombs & Shields*

- *Break the Chains*
  - *Twin Cities ELP*
  - *Healing the Earth*
- whosarat.com

Contact Us:  
greenscare@mutualaid.org

*Benefit CD for Operation Backfire Defendants*  
*Benefit CD for Peter Young*  
certaindays.org

# About the Website

The term Green Scare refers to the federal government's expanding prosecution efforts against animal liberation and ecological activists, drawing parallels to the "Red Scares" of the 1910's and 1950s.

A 2002 edition of a prisoner support zine, *Spirit of Freedom*, defined the Green Scare as, "the tactics that the US government and all their tentacles (FBI, IRS, BATF, Joint Terrorism Task Forces, local police, the court system) are using to attack the ELF/ALF (Earth Liberation Front and Animal Liberation Front) and specifically those who publicly support them."

The term has now been widely used to describe an early 2006 sweep of arrests, convictions and grand jury indictments of alleged ELF/ALF activists on charges relating to acts of property damage, conspiracy, arson and use of destructive devices dubbed "Operation Backfire," the cases of the SHAC7, Eric McDavid and Rod Coronado, as well as recent repressive legislation such as the Animal Enterprise Terrorism Act, which attempts to turn activists into "terrorists."

# News and Updates

## GreenScare.org Updated

After technical and some staffing issues, we were unable to update GreenScare.org to keep up with recent developments. See the Events Page for upcoming events and benefits for targets of the Green Scare.

## Eric McDavid's Health Update

On the morning of his scheduled hearing, Eric McDavid was diagnosed with Pericarditis - a heart condition. Because of his stay in a hospital and visits to the jail doctor, his hearing of motions filed by his lawyer were postponed until April 23. At the hearing, the judge denied all motions in less than two hours.

The trial is still scheduled for July 2nd and to encourage fundraising to pay for legal fees, the weekend of May 5th has been chosen as a Weekend of Solidarity for Eric McDavid. Check details at [www.SupportEric.org](http://www.SupportEric.org).

To donate directly through paypal, visit [SupportEric.org](http://SupportEric.org)

To send a donation by mail, make a check/money order out to "Sacramento Defense Fund" and send to:

Sac Prisoner Support  
PO Box 163126  
Sacramento, CA 95816

You can write Eric at:  
MCDAVID, ERIC X-2972521 4E231A  
Sacramento County Main Jail  
651 "I" Street  
Sacramento, CA 95814

For more ways to help Eric, [click here](#).

*Contact information for other Green Scare indictees and political prisoners can be found at <http://greenscare.org/addresses.html> or at [EcoPrisoners.org](http://EcoPrisoners.org)*

## **June 9 - Weekend of Solidarity with Jeff Luers**

June marks the seventh year that Jeff "Free" Luers since his imprisonment. Sentenced to 22 years and 8 months for burning three Sport Utility Vehicles (SUVs) at Romania Chevrolet in Eugene, Oregon. Although Jeff recently won his appeal and is expecting a reduced sentence, this case is not over, and his support team are asking folks to organize events on the weekend of June 9th. For more information on this weekend, [click here](#).

## **Tre Arrow's Extradition Hearing Update**

On April 19, a Canadian court heard arguments considering the possible extradition to the United States of Tre Arrow who is seeking asylum. The judges postponed a decision and are expected to take at least a month to reach a decision. For more details on the hearing, see [Portland Indymedia](#).



# Green Scare Addresses

Indictee and Political Prisoner Contact Information  
*writing guidelines and tips at [EcoPrisoners.org](http://EcoPrisoners.org)*

Name	Location
<p>Andy Stepanian  www.AndyStepanian.com  www.myspace.com/andystepanian  www.shac7.com/andy letters-  forandy@shac7.com  FCI Butner Medium II  Federal Correctional Institution  PO Box 1500  Butner, NC 27509  Briana Waters  www.supportbriana.org  donate@supportbriana.org</p>	<p>Andy Stepanian # 26399-050</p> <p><i>Currently out on bail</i></p>
<p>Daniel McGowan  www.supportdaniel.org  www.myspace.com/danielmcgowan  friendsofdanielmcg@yahoo.com  # 63794-053, Unit I  FCI Sandstone  Federal Correctional Institute  PO Box 1000  Sandstone, MN 55072</p>	<p>Daniel McGowan</p>
<p>Darius Fulmer  www.shac7.com/dari  lettersfordari@shac7.com  FCI Fort Dix  Satellite Camp  PO Box 1000  Fort Dix, NJ 08640</p>	<p>Darius Fulmer # 26397-050</p>
<p>Eric McDavid  www.supporteric.org  info@supporteric.org  Sacramento County Main Jail  651 "I" Street  Sacramento, CA 95814</p>	<p>McDavid, Eric X-2972521 4E 231A</p>
<p>Jake Conroy  www.SupportJake.org  www.myspace.com/veganjedi  www.shac7.com/jake  lettersforjake@shac7.com  FCI Victorville Medium I  Federal Correctional Institution  P.O. Box 5300  Adelanto, CA 92301</p>	<p>Jacob Conroy, # 93501-011</p>
<p>Jeff "Free" Luers  www.freefreenow.org  www.myspace.com/freefreenow  freefreenow@mutualaid.org  Lane County Adult Corrections  101 West 5th Ave  E... ..</p>	<p>Jeffrey Luers # 1306729</p>

# Events and Benefits

Being involved in the legal system does not just take time and energy, but also a great deal of money. None of the defendants in Green Scare cases are wealthy people and they depend on the community to raise funds to help fight their cases. You can donate directly to support teams via their websites, or you can organize a benefit to raise awareness and some much needed cash for a defendant or political prisoner. To see the current list of indictees and political prisoners, click [here](#). To get your event listed below, email us at [greenscare@mutualaid.org](mailto:greenscare@mutualaid.org).

**Portland, OR - Thursday, October 4, 2007** Are animal rights activists really the "number one domestic terrorist threat"? A convicted animal rights "terrorist" and an award-winning journalist discuss what this "War on Terrorism" means for activists and the general public.

October 4, 2007 / Clinton Street Theater / Portland, OR

Contact: Chad Miller / [chad@foodfightgrocery.com](mailto:chad@foodfightgrocery.com) / 503-233-3910

Are animal rights activists the "number one domestic terrorist threat"? According to the FBI, they are, even though their actions have never harmed a human being. A convicted animal rights "terrorist" and an independent journalist will discuss what this "War on Terrorism" means for activists, and all of our civil liberties, at a public forum October 4th, 2007.

The panel will feature Peter Young and Will Potter. Young was one of the first people convicted of "animal enterprise terrorism" for releasing thousands of mink from fur farms in the Midwest. Young was arrested in 2005 after 7 years of being wanted by the FBI: his co-defendant and friend, Justin Samuel, had cooperated with the government and implicated him in the fur farm raids. He served two years in federal prison.

Will Potter is an award-winning independent journalist based in Washington, DC, who focuses on how lawmakers and corporations have labeled animal rights and environmental activists as "eco-terrorists". Potter has written for publications including The Chicago Tribune, The Dallas Morning News and Legal Affairs, and has testified before the U.S. Congress about his reporting. He is the creator of [GreenIsTheNewRed.com](http://GreenIsTheNewRed.com), where he blogs about the "Green Scare" and history repeating itself.

WHAT: "Animal Rights Terrorists?," a panel discussion about animal rights activism and First Amendment rights WHO: Peter Young and Will Potter WHEN: Thursday, October 4th at 7:00 p.m. WHERE: Clinton Street Theater, 2522 SE Clinton St, Portland, OR 97202 COST: There will be a suggested donation of \$5 with all proceeds going to the Activist Legal Fund. The event is open to the public. EVENT SPONSORS:

Food Fight! Grocery, Herbivore Magazine, Scapegoat Tattoo, SweetPea Baking, Vegan Bodybuilding and Fitness

For more information: Activist Legal Fund: [ActivistLegalFund.org](http://ActivistLegalFund.org) Will Potter: [GreenIsTheNewRed.com](http://GreenIsTheNewRed.com) Peter Young: [SupportPeter.com](http://SupportPeter.com)

# Operation Backfire

"Operation Backfire" is the name given by the Federal Bureau of Investigation (FBI) to the ten year old investigation and indictment of fifteen individuals accused of several arsons in the Pacific Northwest between 1996 and 2001 claimed by the Earth Liberation Front (ELF) or the Animal Liberation Front (ALF). It is because of these arrests and the fervor that federal agencies are seeking to impose severe sentences under the statutes of "anti-terrorism" that the term, "Green Scare" has resurfaced and is being used to describe the draconian measures taken against environmental activists in the same way that alleged communists were targeted in the McCarthy-era Red Scare.

These indictments have become the subject of much debate since they were based primarily on the testimony of a heroin addicted self-professed serial arsonist, whose name apparently came up in a grand jury inquisition of a bitter ex-girlfriend. Despite this shaky "evidence," the potential sentences were unprecedented for non-violent incidents. Some of the charges carried mandatory minimum sentences of 30 years and some of the indictees were facing *mandatory minimum sentences of life in prison* if convicted of all charges. The FBI's reasoning for the severity of the charges is their assertion that the accused are "terrorists," though the charges leveled against them are not terror related and the crimes of which they are accused harmed no one. The most severe of the charges are arson-related. The median sentence for arson in the United States is 5 years, murder is 15 years, sex abuse less than 3½ years, and assault is 16 months.<sup>1</sup> Yet some people in this case were facing up to life plus 335 years!

To escape the possibility of life in prison, all but four of the defendants turned police informant in July 2006 and cooperated fully with prosecutors agreeing to testify against co-defendants in exchange for leniency. On November 9, 2006, the remaining four defendants - Daniel McGowan, Jonathon Paul, Joyanna Zacher, and Nathan Block - struck a deal with prosecutors where they admitted their responsibility, but would not inculcate any other individual, whether they be informant, fugitive, or deceased. Offering "global resolution" to the case, these arrestees (except Jonathan Paul) were facing life in prison, but received downward departures similar to those who cooperated with the prosecution.

Sentencing was passed down in June of 2007. Many of the defendants received Terrorism Enhancements (TE) when Judge Aiken decided that certain actions were intended to coerce the federal government. These Enhancements raise the base criminal level of the defendant and will be taken into consideration by the Bureau of Prisons when assigning the inmates security levels in federal correctional facilities. In short, although none of the arsons of Operation Backfire resulted in injury or death, the de-

defendants could be assigned to maximum or "supermax" facilities with violent offenders. For more information on Terrorism Enhancements, see [GreenIsTheNewRed.com](http://GreenIsTheNewRed.com).

The sentences the defendants received were:

- Cooperating Defendant Stanislas Meyerhoff - 13 years (+TE)
- Cooperating Defendant Kevin Tubbs - 12 years 7 months (+TE)
- Cooperating Defendant Chelsea Gerlach - 9 years (+TE)
- Cooperating Defendant Kendall Tankersley - 3 years 10 months
- Cooperating Defendant Suzanne Savoie - 4 years 3 months (+TE)
- Cooperating Defendant Darren Thurston - 3 years 1 month
- Non-Cooperating Defendant Daniel McGowan - 7 years (+TE)
- Non-Cooperating Defendant Jonathan Paul - Sentencing in abeyance
- Non-Cooperating Defendant Joyanna Zacher - 7 years 8 months (+TE)
- Non-Cooperating Defendant Nathan Block - 7 years 8 months (+TE)

Lacey Philabaum and Jennifer Kolar have also been indicted and pled guilty after turning police informant in both the Oregon and Washington cases. They have not been sentenced yet and will most likely be sentenced in Washington after Brianna Waters' trial. The first informant, Jacob Ferguson - a self-professed serial arsonist and longtime heroin addict - is as yet unindicted, and according to his own admission has been granted immunity and has been paid at least \$50,000 for his cooperation from federal prosecutors despite playing an aggravating role in nearly every indicted arson.

In addition to the years long sentences with Terrorism Enhancements, there has also been one casualty of "Operation Backfire." Bill Rodgers of Prescott, Arizona, was found dead in his cell two weeks after his arrest in an apparent suicide.

There are support sites for some of the defendants and aid is appreciated by those serving their sentences. Our resources are limited, however, and should be focused on those who are not cooperating with the authorities in this bogus investigation. It is known from court transcripts that those who took pleas were offered their pleas (and downward departures of sentences) because they have "fully cooperated, named names, and stuck their necks out."

For a more detailed synopsis of the Operation Backfire cases, see the Civil Liberties Defense Center (CLDC) update from May 15, 2007 or listen to the interview Lauren Regan of the CLDC gave to the radio program, Healing the Earth on June 25, 2007. ( Part 1 24:23 | Part 2 18:05 )

Daniel McGowan's support team can be reached at [friendsofdanielmcg@yahoo.com](mailto:friendsofdanielmcg@yahoo.com)

Joyanna Zacher and Nathan Block's support team can be reached at [solidaritywith-sadieandexile@gmail.com](mailto:solidaritywith-sadieandexile@gmail.com)

Jonathan Paul's support team can be reached at [friendsofjonathanpaul@yahoo.com](mailto:friendsofjonathanpaul@yahoo.com)

## Court Documents

Cooperating Defendant Stanislas Meyerhoff

- Plea Agreement (redacted) - 07/21/06
- Court Transcript - 07/21/06
- Motion to Reserve Seats - 02/27/07
- Notes from Sentencing - 05/23/07

Cooperating Defendant Kevin Tubbs

- Plea Agreement (redacted) - 07/20/06
- Notes from Sentencing - 05/25/07

Cooperating Defendant Chelsea Gerlach

- Plea Agreement (redacted) - 07/21/06
- Court Transcript - 07/21/06
- Notes from Sentencing - 05/25/07

Cooperating Defendant Kendall Tankersley

- Plea Agreement (redacted) - 07/20/06
- Notes from Sentencing - 05/31/07

Cooperating Defendant Suzanne Savoie

- Plea Agreement (redacted) - 07/21/06
- Court Transcript - 07/31/06
- Notes from Sentencing - 05/31/07

Cooperating Defendant Darren Thurston

- Plea Agreement (redacted) - 07/20/06
- Court Transcript - 07/20/06
- Notes from Sentencing - 05/29/07

Non-Cooperating Defendant Daniel McGowan

- Plea Agreement - 10/17/06
- Notes from Sentencing - 06/04/07

Non-Cooperating Defendant Jonathan Paul

- Plea Agreement - 10/17/06
- Notes from Sentencing - 06/05/07

Non-Cooperating Defendant Joyanna Zacher

- Plea Agreement - 10/17/06
- Notes from Sentencing - 06/01/07

Non-Cooperating Defendant Nathan Block

- Plea Agreement - 10/17/06
- Notes from Sentencing - 06/01/07

Resources: Portland Indymedia Green Scare Page Green is the New Red  
Articles: "Operational Backfire: Criminalizing Dissent," by Michael Donnelly

## **Daniel McGowan's Plea Agreement**

U. S. Department of Justice  
United States Attorney  
District of Oregon  
701 High Street  
Eugene, OR 97401  
Office: (541)465-6771  
Fax: (541)465-6582  
October 17, 2006  
Mr. Jeffery P. Robinson  
Ms. Amanda E. Lee



Schroeter, Goldmark & Bender  
500 Central Building  
810 Third Avenue  
Seattle, WA 98104

Re: *United States v. Daniel Gerard McGowan* Case No.  
Plea Agreement

Dear Counsel:

1. **Parties/Scope:** This plea agreement is between this United States Attorney's Office for the District of Oregon (USAO) and defendant, and thus does not bind any other federal, state, or local prosecuting, administrative, or regulatory authority except as otherwise identified in this agreement. Except as specified in this agreement, it does not apply to any charges other than those specifically mentioned herein. This plea agreement is part of a global plea agreement among co-defendants Jonathan Christopher Mark Paul, Joyanna L. Zacher, Nathan Fraser Block, Daniel Gerard McGowan and the USAO. It is understood by all the parties that should one of the other defendants fail to provide information pursuant to Paragraph 7B of this Agreement, the government may terminate this plea agreement and the Court will be advised that all four defendants' cases will proceed to trial; provided that, in the event the defendant is not in breach of his obligations under Paragraph 7B and 7H of this Agreement, no information provided by the defendant pursuant to Paragraph 7B may be used against the defendant at trial.

2. **Charges and Penalties:** Defendant agrees to plead guilty to Counts 1 through 15 of the Information as follows:

**Count 1: Conspiracy to Commit Arson and Destruction of an Energy Facility of the United States** in violation of Title 18, United States Code, Section 371. The maximum sentence is 5 years imprisonment, a fine of \$250,000, a 2 to 3 year period of supervised release and a mandatory \$100 fee assessment.

**Count 2: Arson - Superior Lumber Company** in violation of Title 18, United States Code, Section 844(1). The maximum sentence is 20 years imprisonment, a mandatory minimum of 5 years, a fine of \$250,000, a 2 to 3 year period of supervised release and a mandatory \$100 fee assessment.

**Count 3: Attempted Arson - Jefferson Poplar Farm Main Office** in violation of Title

18, United States Code, Section 844(1). The maximum sentence is 20 years imprisonment, a mandatory minimum of 5 years, a fine of \$250,000, a 2 to 3 year period of supervised release and a mandatory \$100 fee assessment.

**Counts 4 through 15: Arson - Jefferson Poplar Farm Vehicle Shop, Shop & Office, and 10 vehicles** in violation of Title 18, United States Code, Section 844(1). The maximum sentence is 20 years imprisonment, a mandatory minimum of 5 years, a fine of \$250,000, a 2 to 3 year period of supervised release and a mandatory \$100 fee assessment.

Defendant agrees to pay the fee assessment applicable to each of the above counts by the time of entry of guilty plea or explain to the Court why this cannot be done. Defendant will pay mandatory restitution as ordered by the Court.

3. **Factual Basis:** The factual basis for each count is attached hereto and by this reference incorporated herein as "Attachment 1," which defendant agrees the USAO can prove beyond a reasonable doubt.

4. **Dismissal and non-prosecution:** The USAO will move to dismiss with prejudice the Second Superseding Indictment at the time of sentencing. In addition, the defendant will not be prosecuted by any other federal, state, or local prosecuting, administrative, or regulatory authority for any of the acts set forth in that indictment or for any of the acts disclosed by the defendant in his proffer to the Government or in disclosure made in satisfaction of the obligations set forth below.

5. **Resolution of Sentencing Issues:** In addition to waiving the right to a jury trial on the issue of guilt, defendant knowingly and voluntarily agrees that sentencing issues in this case need not be alleged in a grand jury indictment, proven to a trial jury, or proven beyond a reasonable doubt. Defendant also knowingly and voluntarily consents to judicial fact-finding and resolution of any and all sentencing issues. Defendant and Government agree that the guidelines calculations should be derived from the United States Sentencing Commission Guidelines Manual with effective date of November 1, 2000.

6. **Guideline Enhancement:** The USAO will recommend the terrorism guideline enhancement found in U.S.S.G. §3A1.4 because the felony offenses either involved or were intended to promote a federal crime of terrorism. The defendant reserves the right to argue against the application of this guideline section.

7. **Acceptance:**

**A. Extent of Reduction for Acceptance of Responsibility:** Subject to Subsection B of this Paragraph, the USAO agrees to recommend a 3 level reduction for acceptance of responsibility if defendant's offense level is 16 or greater;

otherwise a 2 level reduction applies. The USAO reserves the right to change or omit this recommendation if defendant, between plea and sentencing, commits any new or additional violation of law, obstructs or attempts to obstruct justice, or acts inconsistently with acceptance of responsibility.

**B. Information:** Defendant agrees to disclose to the Government all information in his possession that is true about his personal participation in any of the offenses alleged in the indictment and any uncharged criminal conduct. Defendant agrees to participate in disclosure sessions with the Government which shall be conducted pursuant to FRCrP 11 (f), FRE 410, and U.S.S.G. §1B1.8 and as described below; *provided that* defendant shall not be required to reveal information that inculpates others, reveals their identities, or would be the functional equivalent of revealing their identities. During the disclosure session(s), the defendant shall:

(1) Disclose when, where, and how each offense occurred; this disclosure shall include such details of defendant's own individual conduct and whether defendant acted alone or in concert with others.

(2) If an offense was done in concert with others, disclose the sum and substance of any conversations defendant had with others.

(3) Should defendant refuse to disclose information on the grounds that it would inculcate or reveal the identity of others, the Government may require defendant's attorney to articulate the basis for this refusal, including the reason(s) defendant believes such information would inculcate or identify another.

(4) If the Government is persuaded that the refused information would inculcate or reveal the identity of others, the Government will question defendant in a manner that avoids the issue or accept defendant's refusal to disclose the information.

(5) If the government is not persuaded that the refused information would inculcate or reveal the identity of others, the disclosure session will continue to another area of inquiry and the parties will attempt in good faith to find a way to allow defendant to disclose the refused information in a manner that will not inculcate or reveal the identity of others.

(6) Should the parties be unable to find a way to allow defendant to disclose the refused information and should the Government deem such information to be of vital importance to the Government, defendant and defendant's attorney will be so advised and given a reasonable amount of time to decide whether to disclose the refused information. If defendant thereafter persists in refusing to disclose the refused information, the disclosure session will terminate, the global plea agreement with codefendants Zacher, Block, McGowan and Paul may be declared void, and the Court will be advised that all four defendants' cases will proceed to trial.

**C. Collateral Use:** Defendant understands that the USAO will not tolerate any further violation of federal or state law, and, should any violations become known, they will be made known to the appropriate authorities. Nothing in this agreement will preclude prosecution of defendant by those authorities for such violation. Defendant understands that nothing in this agreement will prevent the government from instituting prosecution against defendant for perjury, subornation of perjury, false statements, or false declaration if defendant commits or causes the commission of any such offense in connection with defendant's testimony.

**D. Sentencing Information:** Defendant understands that the USAO, pursuant to 18 U.S.C. § 3661, must provide the information given under this agreement to the PSR writer and sentencing judge. USSG § 1B1.8 governs the use of such information in determining defendant's applicable guideline sentencing range.

**E. Testimony:** It is understood by the parties of this agreement that defendant does not agree to testify at any trial, hearings or proceedings. Notwithstanding this condition of the plea agreement, the defendant acknowledges that defendant may be subpoenaed to testify at grand jury, trials and other hearings. Defendant also understands that should defendant be subpoenaed to testify, and at that time decides not to

testify, and upon order of a court that defendant must testify, remains in opposition to testifying, defendant may be subject to both civil and criminal contempt proceedings.

**F. *Best Efforts:*** Any benefit defendant may receive under this agreement is solely dependent on whether defendant uses his best efforts in the disclosure sessions, the proffer agreement, and as otherwise set forth in this agreement, and is not dependent upon the identification, arrest, prosecution, or conviction of any person for any crime.

**G. *Polygraph Examination:*** Defendant further agrees to submit to a polygraph examination on the issue of truthfulness if it is deemed necessary by the United States, with an examiner selected by the USAO. If the examination results indicate deception, defendant will be afforded the opportunity to review and explain the deceptive responses. If, after consideration of defendant's responses, the USAO is convinced defendant's statement is not complete and truthful, the USAO may consider this agreement to have been breached by defendant.

**H. *Breach of Defendant's Agreement to Disclose Information:*** It is expressly understood and agreed by the parties that the determination of whether defendant has complied with all the terms of this plea agreement rests exclusively with the USAO. Should defendant knowingly give false, misleading, or incomplete information or testimony, the parties agree that: (1) defendant may not withdraw any guilty plea; (2) the USAO is free to make any sentencing recommendation and is not bound by this agreement; (3) statements and information from defendant under this agreement or any previous proffer agreement may be used for any purpose without any restrictions; (4) defendant may be prosecuted for any crime, whether or not such crime was the subject of this agreement; and (5) The USAO may, but need not declare the plea agreements with defendants Zacher, Block, and Paul null and void; provided that in the event the USAO declares these plea agreements null and void, no information provided by any of these defendants, pursuant to Paragraph 7B of their plea agreements may be used against them at trial.

**I. *Defendant's Compliance with the Agreement to Disclose Information:*** It is expressly understood and agreed by the parties that the determination of whether defendant has complied with all the terms of this plea agreement rests exclusively with the USAO.

**8. *USAO Sentence Recommendation:*** The sentence to be recommended by the Government in this case is based on the nature and circumstances of the offense and the history and characteristics of the defendant; the need for the sentence to reflect the seriousness of the offense, to promote respect for the law and to provide just punishment for the offense; to afford adequate deterrence to criminal conduct; to protect the public from further crimes of the defendant; and to provide a just and fair sentence for this defendant in relation to and in comparison with all of the defendant's co-conspirators.

**9. *Waiver of Appeal/Post-Conviction Relief:*** Provided the Court imposes a sentence within the range set forth in paragraph 13B below, both the government and defendant knowingly and voluntarily waive the right to appeal from any aspect of

the conviction and sentence unless the sentence imposed exceeds the statutory maximum, the Court imposes an upward departure pursuant to Part 5K of the Sentencing Guidelines, or the Court exercises its discretion under 18 U.S.C. § 3553(a) to impose a sentence which exceeds the advisory guideline range. Should defendant seek an appeal, despite this waiver of that right, the USAO may take any position on any issue on appeal. Defendant also waives the right to file a motion pursuant to 28 U.S.C. § 2255 to set aside the conviction and sentence, except on grounds of ineffective assistance of counsel, newly discovered evidence, or a retroactive change in the applicable guidelines or statute.

10. ***Court Not Bound:*** The Court is not bound by the recommendations of the parties or of the Presentence Report (PSR) writer. Because this agreement is made under Rule 11 (c)(1)(B) of the Federal Rules of Criminal Procedure, defendant may not withdraw any guilty plea or rescind this plea agreement if the Court does not follow the agreements or recommendations herein.

11. ***Full Disclosure/Reservation of Rights:*** The USAO will fully inform the PSR writer and the Court of the facts and law related to defendant's case. Except as set forth in this agreement, the parties reserve all other rights to make sentencing recommendations and to respond to motions and arguments by the opposition.

12. ***Breach of Plea Agreement:*** If defendant breaches the terms of this agreement, or commits any new violations of law between signing this agreement and sentencing, the USAO is relieved of its obligations under this agreement, but defendant may not withdraw any guilty plea.

13. ***Substantial Assistance:***

A. ***Global Resolution of Case:*** Defendant will withdraw defendant's plea of not guilty and enter into a plea agreement with the Government by which defendant would enter a plea of guilty to the offenses set forth in paragraph 2 above on the condition that defendants Jonathan Christopher Mark Paul, Joyanna L. Zacher, Nathan Fraser Block and Daniel Gerard McGowan all agree to enter into appropriate plea agreements with the government.

The government acknowledges that defendant's plea agreement is of substantial assistance. Upon defendant's successful completion of every condition of the plea agreement, the government agrees to move, as authorized by 18 U.S.C. §3553(e) and U.S.S.G. §5K1.1, to authorize the Court to impose a sentence below a level established by statute as a minimum sentence for any offense to which the defendant has agreed to plead guilty.

B. ***Extent of Departure:*** Assuming defendant complies with the terms of this agreement, the USAO will recommend up to a 12 level downward departure pursuant to U.S.S.G. §5K1.1 (and 18 U.S.C. §3553(e), if necessary) and/or Rule 35 of the Federal Rules of Criminal Procedure and a sentence at the low end of the resulting advisory guideline, which the Government anticipates will be 96 months imprisonment.

Defendant is free to request other adjustments or departures; however, the USAO will oppose any such request. The defendant agrees that any grounds upon which

defendant will seek a sentencing adjustment will be raised sufficiently in advance of the sentence hearing to permit the government a full opportunity to respond to the Court. Defendant also agrees not to request defendant's sentence be lower than 63 months or lower than any sentence imposed upon co-conspirator Suzanne Savoie plus 18 months, whichever is less.

14. **Continue Sentencing:** Defendant agrees to have the sentence hearing postponed in order to continue the disclosure sessions if the USAO requests such a continuance.

15. **Place of Confinement:** In the event a sentence of confinement is imposed, the defendant will request that he be allowed voluntarily to surrender to custody and that the Court recommend to the Bureau of Prisons (BOP) that a Federal Prison Camp be designated as his place of confinement. The USAO agrees not to oppose these requests so long as defendant otherwise qualifies pursuant to BOP policy and regulations .

16. **Total Agreement:** This letter states the full extent of the agreement between the parties. There are no other promises or agreements, express or implied. If defendant accepts this offer, please sign and attach the original of this letter to the Petition to Enter Plea.

Sincerely,  
KARIN J. IMMERGUT  
United States Attorney  
KIRK A. ENGDALL  
Assistant U.S. Attorney  
Mr. Jeffery P. Robinson  
Ms. Amanda E. Lee  
Re: Daniel Gerard McGowan  
Page 8

I have read this agreement carefully and reviewed every part of it with my attorney. I understand the agreement and voluntarily agree to it. I am satisfied with the legal assistance

provided to me by my attorney.  
Date 2006  
DANIEL GERARD McGOWAN  
Defendant

I represent defendant as legal counsel. I have carefully reviewed every part of this agreement with defendant. To my knowledge defendant's decision to enter into this agreement is an informed and voluntary one.

Date 2006

I represent defendant as legal counsel. I have carefully reviewed every part of this agreement with defendant. To my knowledge defendant's decision to enter into this agreement is an informed and voluntary one.

Date /4oJ 1 2006  
AMANDA E. LEE

Attorney for Defendant

**Attachment 1**

*United States v. Daniel Gerard McGowan*

Beginning in October 1996 and continuing through October 2001, in the District of Oregon and elsewhere, defendant Daniel Gerard McGowan and various persons at various times willfully and knowingly conspired and agreed to maliciously damage or destroy, or attempt to damage or destroy, by means of fire, buildings, vehicles, and other personal and real property owned in whole or in part by, or possessed by or leased to, others. Some of these persons intended to damage or destroy, attempt to damage or destroy, or did damage or destroy such property of the United States or a department or agency of the United States. Some intended to damage or destroy, attempt to damage or destroy, or did damage or destroy property of entities engaged in activity affecting interstate commerce. Some intended to damage or destroy, attempt to damage or destroy, or did damage or destroy property of an energy facility of the United States involved in the transmission of electricity. Some intended to damage or destroy or attempt to damage or destroy all such property.

The purpose of some of the conspirators was to influence and affect the conduct of government. The purpose of other conspirators was to influence and affect the conduct of commerce, private business, and others in the civilian population. All conspirators intended to and did participate in acts of violence, sabotage, or destruction of property potentially dangerous to human life and property in violation of the criminal laws of the United States and the State of Oregon.

In January, 2001 and in May, 2001, in the District of Oregon, defendant McGowan knowingly conspired and agreed with others to maliciously damage or destroy or attempt to damage or destroy by means of fire, buildings, other real property, vehicles, and personal property, owned in whole or in part or possessed by or leased to an entity engaged in activity affecting interstate commerce as more particularly set forth in Counts 2 through 15.

## **Daniel McGowan's Sentencing Report**

author: Gumby Cascadia

*Summary:*

*On June 4, 2007, Daniel McGowan was sentenced to 84 months (7 years) in a federal detention facility, followed by three years of supervised probation.*

*The terrorism enhancement was applied to the Jefferson Poplar Farm arson. Judge Aiken departed downward of the lowest end of the government's recommended sentence for the positive works Daniel is doing in the community.*

**Report from Daniel McGowan Sentencing Hearing, 6/4/07**

Asst. U.S. Atty. Stephen Peifer for the government:

Daniel McGowan has plead guilty to one count of conspiracy, and arson charges related to actions at Superior Lumber in Glendale, Oregon and Jefferson Poplar Farm in Clatskanie, Oregon. His aliases have included Dylan Kay, Jamie Moran, Sorrel, Djenni, Rabid, Agent Tart Classique, and Agent Key Lime. Peifer said he has had lengthy involvement with many underground groups, including the Biotic Baking Brigade (BBB), California Croppers, Cropatistas, Reclaim the Seeds, Washington Tree Improvement Association, and Anarchist Golfers' Association. Although many co-defendants in this case have said in court that they had never used the name "The Family", McGowan used it often and repeatedly.

Daniel, he said, was two different people; the one his family and friends knew, and his underground persona. He characterized Daniel as having a "Jekyll and Hyde" personality. He said that, like Tubbs who committed his first arson solo, in 1997 Daniel "acted alone", breaking windows and spray painting "ALF" at a Macy's in Brooklyn for selling furs, Zamir Furs in Brooklyn, and a business called "Evolution" that sold parts of endangered animals.

In 1998, Daniel moved to San Francisco where he met Suzanne Savoie. In November of that year, he threw a pie in the face of the Sierra Club president. Peifer said this was "more than a symbolic act", and that by this time, Daniel had given up on mainstream environmentalism. Also that month, Daniel pied The CEO of Novartis Seeds and the Dean of Natural Resources at UC Berkeley. The communiqués attributed the acts to the Biotic Baking Brigade. Peifer said that Daniel was associated with the group as late as 2004. The same year, Daniel targeted Fidelity

Investments (for their investment in Occidental Petroleum) by throwing etching solution on their windows. In December, there was a power outage in San Francisco, and Peifer stated that Daniel took advantage of the opportunity to target the Bank of America with paint-filled balloons "apparently just because it was a financial institution".

In July 1999, Daniel performed reconnaissance at a UC-Berkeley plant research facility. He drew a diagram of the genetically engineered corn crop, which was then used by others to tear the crops up. Daniel was not there, Peifer said, because he was busy in Lodi, California (with a group calling themselves the Lodi Loppers) destroying GE corn owned by Eureka Seeds. The communiqué, was written by Daniel. The same year, Daniel was involved in another action against genetic engineering with a group called Reclaim the Seeds. At the end of 1999, Daniel moved to Seattle to begin preparing for the WTO ministerial, but, according to Peifer, "his work lived on" in a 'zine called The Nighttime Gardener, posted on the Bioengineering Action Network's website. Peifer said it was similar to the how-to guides written by Bill Rodgers, with instructions on how to attack research facilities and "destroy years of researchers' work". While living in Seattle, Daniel and Suzanne Savoie travelled to Pullman, Washington to target a potato research facility [I'd like to note here, that Peifer never once said the words "genetic engineering" in describing all these "facilities" and "research"], but the action was called off due to a vehicle breakdown. In November, three days before the WTO



battle, there were attacks at two GE crop sites, in Puyallup, Washington and at the University of Washington (which Peifer called "prophetic"). Daniel wasn't there because he was sick and denied writing the communiqué, but said that parts of it appeared to be based on his research. The communiqué makes reference to Toby Bradshaw, whose office was later targeted during the "Double Whammy" arson at the University of Washington.

From November 30 through December 2, the WTO met [or tried to] in Seattle. Peifer said Daniel was an "integral part" of the black bloc actions of property destruction. He said Seattle was "understaffed by police" who "had their hands full" dealing with non-violent "legal protesters". He referred again to the planned action at Cargill that he said was called off because the team didn't want to "tangle with Longshoremens" at the site. "McGowan changed his plans and rampaged through the streets instead," Peifer said, "using a tire iron to smash windows. McGowan favored the use of a slingshot with ball bearings, which sounds as dangerous as it is."

In 2000, Daniel moved to Eugene, where he was invited to attend his first "book club" meeting, but he didn't go to that one. "By that time, he was a trusted member of the Family, otherwise he would not have been invited," said Peifer. Daniel committed acts of vandalism around Eugene – at Umpqua Bank, and at a "health food store", according to Peifer. For a short time, Daniel worked for the Earth First! Journal, which was not "radical or extreme enough" for him, says Peifer, who quoted a line from a letter to the Journal from "Rabid" that read, "If Earth First! won't support the ELF, who will?" In June of 2000 with Savoie, Daniel targeted the Pure Seed Testing Company in Canby, Oregon, destroying their greenhouses and test plots, and causing half a million in damage. The communiqué released by the Anarchist Golfers' Association was "full of McGowan's well-known humor and ridicule," according to Peifer. The communiqué blamed the US Forest Service and APHIS for their role in biological destruction, which Peifer said was another example of how Daniel has targeted government agencies and private facilities "over and over again" to intimidate, coerce and retaliate.

The following month, Daniel travelled to the Midwest to work with an entirely different cell. Peifer said that the plea agreement does not require Daniel to name names, but that the Midwest group is an entirely different cell of people and that Daniel is protecting them and thwarting their investigation by refusing to name them – "not that there haven't been leads," he said. While in the Midwest, Daniel researched and carried out an attack on the a US Forest Service Biotechnology Laboratory in Rheinlander, Wisconsin, which Peifer said was "looking for alternative ways to create wood pulp to save trees". Over one million dollars in damage was done, and Daniel wrote the communiqué. In September, Daniel attended the "book club" meeting in Santa Cruz, where he "lectured" to the others about actions against genetic engineering. That December, Daniel performed a recon mission at Jefferson Poplar, which was a large and challenging target, so the action was put off, and instead, Superior Lumber was targeted. Daniel reconnoitered the site a week before the arson, and moved into a nearby house "solely to prepare". He "lived with the devices and fuel" and on the

night of the action, helped load the vehicle and rode with the crew, changed into dark clothing, checked the radios, and acted as lookout while the others set the devices that caused over a million dollars damage. After the action, Daniel and Savoie went to Portland and used a public computer to write the communiqué. Peifer said Daniel went into the bathroom at Powell's Books to assemble the communiqué, "almost like Mission Impossible".

In January of 2001, Daniel attended his second "book club" meeting in Olympia, prior to the "Double Whammy" and Romania fires. In March, Daniel played a "major role" in the tree spiking of the Judie timber sale. Peifer said Daniel researched tree spiking, so he "knew about the danger to loggers and millworkersmill workers", that he purchased the nails and spikes, and that he personally recruited others. They worked for two and a half hours, "wearing headlamps like miners" and spiked the trees high and low, cutting off the ends of some so that loggers would not see the nails. Daniel wrote the communiqué, which stated that, "All responsibility for worker safety now lies with the owner of the sale, Seneca Jones Corporation and their accomplices, the Forest Service. Cancel this sale immediately." Peifer said that Daniel's actions were "callous and reckless", and that tree spiking was renounced by Judi Bari before Redwood Summer.

Daniel was not involved in the Romania arson, but Meyerhoff came to Daniel to approve the communiqué. Daniel was concerned that the communiqué mentioned Free and Critter, but was unable to sway the group to change it.

Originally, the action at Jefferson Poplar was supposed to be "simply destroying the trees" as with other GE actions Daniel had participated in, but this was "ratcheted up to arson". Daniel knew about the "Double Whammy" (simultaneous arsons planned for the University of Washington Horticulture Center and Jefferson Poplar in Oregon). Peifer called it a

"well-planned and coordinated crime". Daniel helped purchase the needed supplies and took part in the construction of the devices wearing a Tyvek "clean suit" and gloves. He set the devices in the office and garage using "trailers" of bedsheets soaked in fuel to link the vehicles together, and spray painted "ELF" on the unburned building. Regarding the placement of a device near a propane tank, Peifer said Daniel and Meyerhoff had a brief discussion about it and that Daniel expressed concern, but ultimately it was still left there. Gerlach and Daniel wrote the communiqué, which was out to get the government, according to Peifer.

Peifer spoke again about how there had been a disagreement, involving Craig Rosebraugh, about alterations made to the communiqué, and that Rosebraugh "lost his job over it.", which illustrates Daniel's "depth of involvement" in the movement. Peifer showed an overhead projection of the Spirit of Freedom newsletter from June/July of '01, which Daniel published (as part of the North American Earth Liberation Prisoner Support Network he established and ran) that contained an article entitled "Fascist Legislation in the Works" about laws being passed in Oregon and Washington targeting direct action activists. Peifer used the exhibit to show that Daniel had an interest

in influencing government and should have the terrorism enhancement applied in the Jefferson Poplar fire. He said, "For years, McGowan has been targeting government and private facilities."

At Daniel's third "book club" meeting, held in Sisters, Oregon, the altered communiqué was discussed, as was the possible dissolution of "The Family". On June 18th of 2001, Daniel damaged logging equipment totaling \$22,000, and in July he, dug up and damaged culverts at a timber sale in Oregon. Following that action, he went to Canada, and "tries to make it look innocent", says Peifer, but Grand Juries were being convened in Eugene and people subpoenaed, so Daniel left to "avoid getting arrested". He returned to Eugene briefly before moving back to New York. Peifer made the "Jekyll and Hyde" allusion again, saying that during his time back in New York, Daniel engaged in "legitimate" activism while remaining sympathetic to direct action tactics. As for Daniel's prisoner support work, Peifer said he was only willing to support those who had not cooperated with law enforcement and that his current support is filled with "like-minded people".

On January 20, 2004, Daniel stood by while someone tossed a pie into the face of Randall Terry, founder of right-wingnut pro-life wackos Operation Rescue [my words, not Peifer's. But the following are Peifer's words:] "Apparently free speech and lawful protest only go so far with Mr. McGowan." Daniel wrote the communiqué, which was signed, Agent Key Lime. Also in 2004, Daniel was a key organizer for RNC Not Welcome website designed "to make conventioners feel unwelcome in his hometown." He Peifer showed articles from the New York Times and Salon.com in which Daniel, going by the name Jamie Moran, disavows violence against people, but not property. Peifer said Daniel was "directing his cadre of anarchists, dogging delegates, and trying to make Republicans' lives as miserable as possible."

Peifer then played excerpts of the recorded conversations Daniel had with the wired [double entendre] Jake Ferguson. In the recordings, captured when Ferguson visited Daniel in New York in April of 2005 and again when Daniel visited Eugene in August that year, they discuss whether the actions had any lasting effect. Daniel said he felt the actions had been a powerful symbol, even though most of the targets had been rebuilt. He referred to Vail as a "recruitment drive", and expressed that he felt the actions had been successful in changing public perception. Daniel also expressed concern about others in the cell turning on each other, and said that if any of them were ever captured, he would find the money to hire the best lawyer available for that person. He said the only reasons he felt anyone would talk were if they "found Jesus", went insane or if they wanted money, to which Jake jumped in and said, "Money? What do you mean?" and to which Daniel replied, "That's some Judas shit, man." Daniel spoke about Free's case, and talked about hiring a private investigator to reveal a personal friendship between (the judge from Free's case), Lyle Velure, and the Steve Romania family (owners of the SUV lot Free targeted.) He also spoke about putting Velure's address and phone number on a website (although he never did it).

Then Daniel talked about finding a copy of Bill Rodgers' "Setting Fires with Electronic Timers", making "clean" copies, and sending them to some distributors in hopes they would be circulated. While Ferguson drove Daniel to the airport that "visit", they passed a Seneca Sawmill (owners of a company Daniel remembered as linked to the Superior Lumber Company but that was actually connected to the Judie sale), laughed and said "Happy fuckin' New Year, " (i.e. referring to the New Year arson at Superior Lumber.)

Peifer said the comment showed Daniel's attitude. He said that, if Nathan and Joyanna plead out because they "had to", that Daniel's "goose was cooked" by those tapes. In them, he recounts all his major criminal acts and reveals his attitude toward the law. Peifer then quoted Emerson, "'Commit a crime, and the earth is made of glass.' Right now, your Honor, Daniel McGowan's world is made of glass." He said the government is seeking 92 months' sentence.

## Defense Arguments

Amanda Lee presented arguments for Daniel McGowan. She began by quoting Gandhi, "You must be the change you wish to see in the world." Daniel McGowan lives by this principle in his daily practices more than anyone she's every represented, Ms. Lee said, stating that it was "truly a tragedy that he, for a brief time, did not follow that principle, and engaged in the 'militant extremism of arson.'" She said that Daniel's

regret is enormous, and that he wishes to apologize to the people he has harmed by those actions, his family, and the court. She said she had attended sentencing for Meyerhoff, Tubbs and Gerlach, and said that Daniel had acted of his own free will; that he was not coerced or pressured, by friends or loved ones to commit acts of arson, and that he and he alone takes full responsibility for his choices. She displayed photos and spoke of his closeness to his family, and of his love for his wife, Jenny. Daniel's family was in attendance, and was introduced to the court.

Lee then addressed issues argued by the government. She said that the government had characterized Daniel's disagreement with Meyerhoff over the placement of the incendiary device near the propane tank as "brief", and today, the government is blaming Daniel for its placement. Daniel strongly voiced his opposition to placing it there, as he knew nothing about propane tanks and believed it to be dangerous. He regrets not standing his ground on the issue, but now the government wishes to place the blame on him. She said Daniel deeply regrets the actions of that day, and wishes he could take it back, but that faulting him for not having the influence to change the decision is going too far.

The government describes Daniel as a two-dimensional criminal in the '90's, with nothing more on his mind than reckless destruction. Lee said, "The government could not be more wrong." They equated Daniel's non-violent civil disobedience actions and minor property destruction with Kevin Tubbs' solo act of arson at Dutch Girl Dairy,

but Lee said Daniel's prior minor criminal behavior was very similar to Savoie's. At this point, Judge Aiken interjected, "I know the difference and I've read your memo. The government has the right to argue as they wish," to which Lee responded, "It's hard not to respond to certain types of comparisons." Lee continued her arguments, saying that Daniel had been very much focused on researching genetic engineering, especially the development of Round-up Ready corn. She read from a communiqué the government had used to show that Daniel had intended to target the government, which said that Roundup is the largest selling pesticide in the world, and is "the largest cause of illness in farmworkers" and violates the human rights of agricultural workers. These were his motivations.

She went on to say that, yes, Daniel had broken windows at the WTO in Seattle. She said, "I was there," saying that she worked only a few blocks from where the black bloc had damaged property, and that she and other workers downtown had many conversations about the goings-on during the ministerial, but that no one she spoke to felt intimidated.

Indeed, she said, "We were more annoyed with the police checkpoints." Lee said the government had made a big deal about the aborted Cargill action, saying that it had been called off because the activists "didn't want to tangle with Longshoremen", when in fact, they called it off because there were still workers in the office, it was a bad idea, and that they decided not to because of this. Lee said that there were massive peaceful demonstrations, and that police – of which there was an abundance – overreacted, cases were dismissed and judgements were made against the city as a result. She said, "We that live there think the riots were just a bunch of media hype."

Lee talked about Daniel's attendance at three of the "book club" meetings and described the length of his involvement with the cell as similar to Savoie's, at which point Aiken, clearly annoyed, interrupted again, "I already know all this stuff." Lee responded, "Then you know their roles are very similar."

Regarding the taped conversations with scumbag Jake Ferguson, Lee said it was important to note that Ferguson sought Daniel out. She said that the bulk of what we had heard on the tapes from August 15th occurred right after Daniel had visited Jeff "Free" Luers in prison, and that he was very emotional. She said the comments about Judge Velure were deeply embarrassing to Daniel, but that he did not DO anything, like post personal information about Velure online. When Daniel found out that the US Attorneys in this case had passed that information to Velure and scared his wife, Daniel wrote a personal letter of apology. Aiken, annoyed, interrupted again, "I know this. I've seen it." [At this point, all in the courtroom were baffled by Aiken's continuous interruptions and visible annoyance, and were struggling to figure out what she DID want.] Lee went on, "What the government didn't show is what's NOT on the tapes... no planning of future arsons, no talk of guns or explosives. In fact, the vast majority of these recordings show Daniel speaking about his prisoner support work, the time and effort he puts into it. There's no talk of enjoying the arsons. He does talk of not

wanting to get arrested. He didn't run, go underground, use a false name, store false identification. He had a job, went to school, and paid his school loans."

Regarding the terrorism enhancement the government had requested for the Jefferson Poplar fire, Lee asked if the government had really supplied clear and convincing evidence that the action targeted the government.

She pointed out that Jefferson Poplar was a privately owned company, and that the communiqué had been altered, and according to Gerlach was "entirely different" than the one they had written. Lee said the government bears the burden of proof in establishing clear and convincing evidence of motive, and that they had not.

Daniel did not commit the arsons for fun or adventure, argued Lee, but out of a profound love of nature and a sense of desperation. She said that his trip to Thailand after college affected him deeply, seeing the struggles of indigenous people trying to defend their natural resources. She said that in high school and college, Daniel's heroes had been figures like Malcolm X and Nelson Mandela, powerful leaders who had accepted violence in their struggles for justice as younger men, but had moved away from violence with age. Daniel, also, has matured and evolved, and was more likely now to speak about role models like Mother Jones and Utah Phillips. She cited Daniel's extraordinary volunteerism and activism after leaving Eugene, his employment at WomensLaw.org, organizing of Really Really Free Markets, prisoner support work, and computer recycling program, as examples. She said that his evolution occurred not as an "epiphany or single moment", but was more gradual.

Lee began to speak about Daniel's work at Women's Law, and to read a letter from a co-worker, when Aiken interrupted again, saying, "I've read it all. I met her." When Lee started to speak then about Daniel's prisoner support work, Aiken interjected, asking if Daniel's support group only supports people who don't "name names". Aiken said, "That's what is on the table here." Lee spoke about Daniel's support of Turkish prisoner Mehmet Tarhan, a gay conscientious objector. She read a letter a supporter of Mehmet Tarhan had submitted to the court, which spoke of the immense help Daniel was, and spoke of his "deep commitment to helping prisoners in need". Aiken said, "The letter still did not answer my question." Lee countered that Mehmet was in jail for refusing to serve in the army, and that Daniel's work was compassionate. She told the judge about the families of three prisoners he met on a plane flying out to one of the court proceedings, to whom he offered information and resources, and Aiken said, "I'm not asking fringe questions. It was a simple question to answer." Lee apologized. She went on to describe Daniel's involvement organizing Really Really Free Markets in New York, and helping to open a Free Store, which, Lee said, paints a very different picture of Anarchists than the news coverage from Seattle.

Lee said that Daniel's media interviews during the RNC did not advocate violence, but rather bluntly stated, "Fight back if provoked." Daniel said that trying to keep protests in a one square block corral was wrong, and that permits for marches had not been forthcoming.

Lee mentioned the many letters that had been sent to the court on Daniel's behalf, and said that you don't get letters from professors, law students, and policemen if you're not out there doing the work. Daniel demonstrated through action what most people only talk about. Lee said, "He IS being the change," and said he had grown from a person doing damage to being a person who did everything he could to reduce suffering and improve the lives of people in his community. She said, "Hard work is not glamorous, and not fun all the time, but Daniel does it every single day."

Jeff Robinson, co-counsel for Daniel said a few words, as well. Robinson said that he and Amanda Lee had had no illusions about the seriousness of the allegations against their client, and had never been more afraid for a client. He knew that if they went to trial and lost, Daniel would spend the rest of his life in prison. Daniel had the choice to name names or get life in prison. "This was never a choice for him," said Robinson. Daniel had no "misplaced loyalty, gang mentality, or desire to stay involved in criminal activity" which guided his choice not to name names. He had promised himself that he would not try to mitigate his own punishment by hurting someone else, and said that "Mr. McGowan is a man of his word." Robinson said that Daniel had no desire to be a martyr for anyone, only to keep a promise to himself. Daniel had said, "I was involved, I will plead guilty, but I will not hurt others to make it easier for myself." Robinson said that doing the humble work Daniel does, helping victims of domestic violence and the homeless, is inconsistent with a "hero" mentality. He said that Daniel has no control over what is written on websites. Yes, he asked for support. His legal bills are staggering, and he knows he is going to spend years in prison. There was nothing wrong with him asking for support. Aiken interjected, "He was given the opportunity for court-appointed counsel, wasn't he?" To which Robinson replied, "Yes, absolutely. But the fact that he has asked for financial or emotional support should not get him..."

Judge Aiken: "There are people in this courtroom who are not here every day. Tax-payers pay for qualified legal representation, so they need to hear that court-appointed counsel is an option. Not one dollar of Mr.

McGowan's assessment has been paid. I don't see money set up for restitution. I don't see anything for the victims, for THEIR homelessness, THEIR hardships."

"If his fee hasn't been paid, that's the obligation of our firm, not his," countered Robinson.

Robinson then spoke about how the global non-cooperation agreement came about. He said that Daniel had lead the movement to reach a plea deal. The government agreed not to ask for more than 92 months, and Daniel agreed that his sentence should be whatever Suzanne Savoie received, plus eighteen months. When the parents of one of the fugitives contacted Daniel's attorneys, Daniel gave permission for his attorneys to share anything that would help them.

He then spoke about the impact Daniel's refusal to name names had had on the government's case. Robinson said the government already had Jonathan Paul, and had attendance lists from the "book club" meetings. He said that any names Daniel would have given would have been "very familiar" to investigators, thus he didn't believe

Daniel's decision had inhibited the government in any way. He also said that Daniel's refusal to meet with Chelsea Gerlach was not out of some sense of false loyalty, "There was no loyalty left at that point!" said Robinson. Daniel felt that Chelsea's decision was personal. Daniel felt that he also must make his own decision, and that the choice to name names was impossible to him. Daniel's acceptance of responsibility for his own actions had assisted the government in closing cases that would never have been closed. "He made the promise to tell what he did, and kept it – just like he kept the promise to himself. He is a man of his word." Robinson argued that Daniel's refusal to name names about the Wisconsin case had not impeded the government, as the statute of limitations had run out, and there would be no prosecution anyway. Daniel kept his promise to tell of his actions, and saved the court hundreds to thousands of hours of administration time, security concerns for a month-long trial, psychological trauma to victims and witnesses to testify at trial, cost and expense.

Daniel took responsibility for himself while putting no pressure on others so that they could decide how to deal with the government on their own.

Robinson said the court wants to know who Daniel McGowan is and where he's headed. He plans on pursuing his Master's degree from prison. Judge Aiken then asked, "How much do the classes cost?" in a rhetorical way. Robinson went on. The court might think that his refusal to name names is an indication that he plans to return to his life of crime, but Daniel has kept his word from the detention hearing and followed the court's wishes to the letter. He promises that those days are over.

Jenny Synan, Daniel's wife then read her statement to the court. She finished it by saying,

"Your honor, I kindly yet desperately ask for your fairness in Daniel's case. I am about to lose my partner and lose the life that I know, for more years than I can bear to think about. Please consider my words and understand that Daniel is not just a good person, he is an exceptional human being who has contributed positively to so many people's lives. He made some terrible choices in his past and he and I both know there is a price to pay. He has moved on to making the kind of choices that reflect his true character. I beg you to please consider all of these things."

His Daniel's lawyers then spoke to the judge about issues in the presentencing report that needed to be resolved. Peifer was allowed to counter. Peifer said that Mr. Robinson had said the statute of limitations had run out, but that he had been referring to info from the Midwest cell, involved in an arson November 5th of 2001, which the statute would run out on in 2011. Peifer said that Ian Wallace [who may or may not be under indictment, but is clearly offering assistance to the government] had told the government that McGowan introduced him to Stan Meyerhoff. Peifer said that it is an ongoing investigation. Peifer said the introduction occurred in July of 2001, and mentioned that EPD Detective Harvey had been assisting the investigation. Robinson said that Daniel could be called before a grand jury, according to his plea agreement, and that Daniel may have to do that time on top of his sentence, but that shouldn't impact the court's decision.



Then Daniel read his statement to the court: "Your Honor,  
"Thank you for letting me address the court today.

"A lot of horrible things have been said about me today and I would like to offer some additional information. I do not blame anyone else for my actions or words. It is not anyone else's fault that I engaged in burning Superior Lumber and Jefferson Poplar Farms. Not my codefendants, either living or dead, nor my parents. No one forced me into it and I was fully cognizant of what I was doing at the time.

"However, this does not mean I am ok with what I did. I am not. I feel deep regret for the actions because they have frightened people.

Although I now know it is hard for people to believe, my intention at the time was to be provocative and make a statement, not to put individual people in fear. It pains me now to think that I did not see at the time that these arsons would obviously cause fear. I have read in the newspaper and heard from my lawyers about the victims who testified and talked about how scared they were. This was very upsetting and it made me quite ashamed of myself. I thought of my sister Lisa and how she would feel if someone burned down her place of employment-how pictures of my niece and family would be destroyed, and it stung. To the workers at Jefferson Poplar and Superior Lumber, I am truly sorry for the damage I did and the fear I caused you.

"I was a lookout for the arson at Superior Lumber and while I am as responsible as anyone else, I was insulated in some ways from the incident. While I saw the actual building, I did not set the devices nor was I involved in their creation. It made it seem less real to me. Even when I heard the alarm over the radio, it still did not seem real. My participation at Jefferson Poplar, a few months later was completely different - it freaked me out badly. I remember standing there in the middle of the vehicle shop feeling dizzy from the fumes emanating from the gasoline and wondering, "how did I get to be standing here right now"? My decision to leave the Earth Liberation Front was crystallizing in that moment. I attended a meeting weeks later but I was so disenchanted by my involvement in that action, by the real world ramifications of the arson at Romania and how it affected my friend and discussions about violence.

"It is hard to hear tapes of conversations I had with Jacob Ferguson, where I speak with false bravado about our past together. There are no tapes of some of my most private thoughts, about how I got sick to my stomach before these acts, about the fear and discomfort I hid from my friends and family. None of it is an excuse, but I want you to know, Judge Aiken, that when I became involved in the arsons, it was after being involved in environmental activism for a few years, and at a time when I felt utterly desperate as my attempts to change anything failed almost always. Moving to Oregon changed my life as it is so beautiful and the forests are amazing. There is nothing like it on the planet and it caused me great pain to see the old growth forests being logged. I wish I had the answers for how to fix this problem but I didn't and I took the easy way out. I allowed myself to choose extreme tactics because I felt the environmental situation in the world was getting more and more dire by the day. Things I spoke about and thought about how to fix 7 years ago are being discussed

on television and online now and it gives me some hope. At the time though, I was feeling quite hopeless. This seems now to be a hollow excuse for my actions. But it is the truth.

"When I got back from a trip to Canada, I made a resolution to myself. I wanted to settle down in a community and do above-ground/aboveground and community based activism. I had been already been engaged in this sort of activism while I was destroying property. I now wanted to stop the illegal actions and concentrate on positive, solution-based activism. I am lucky to have met my wife Jenny when I was visiting home. I decided to move back home to NYC, I quickly found employment at a rainforest and indigenous rights foundation, organized computer recycling events and open air free markets. Since 2005, I have worked as a website assistant for a domestic violence organization that helps women escape from horrible situations.

"My life since my arrest has been tumultuous and I have been trying to make the best of a bad situation. Although I had to abandon my acupuncture program, I recently was accepted to Antioch University McGregor's distance learning masters program and I will be finishing my first quarter on June 15th. I hope to apply my education in ways that will further my goals of environmental preservation and protection of human rights. I also intend to make the best of my incarceration and utilize my education to help my fellow prisoners with legal, educational and translation issues.

"Your honor, I hope you can see that I have turned away from a path of destruction a long time ago. I accept the fact I will be imprisoned and will do in prison what I do out here-try to make the lives of those around me better. After all this is done, I hope to be released and continue positive activism in my community once again and be a good role model and uncle to my two nieces and a good husband to my wife Jenny.

"I want to thank my family, friends and community for standing with me through this very difficult time."

Judge Aiken said that this was a very interesting sentencing in her court. She said that her impression of Daniel is of two faces: the one face – that if he doesn't agree with something, he'll burn it down – and the "Janus face" – "Poor me. I'm a victim. I'm in pain." She said, "I Googled you at the noon hour. You're a cause celebre. I can't help but notice that nowhere on your website does it say what you plead guilty to. [\*Daniel's plea agreement was posted on the site within a day of the hearing.] I'm sure your lawyers told you not to. It minimizes what you did; it says you are being victimized by the government because you will receive a greater sentence for not cooperating. You're not some political prisoner for speaking out. You committed arson. You destroyed peoples' property by fire. Based on their views. You do nothing on your website to end support of property destruction. You are not a poster child, you are an arsonist. You wanted to have your cake and eat it, too. You want to be a martyr or a hero... It is a choice to have private counsel... you trumpeted your cause... no remorse... no regret... I generally commend furthering education, but here it seems to be further evidence of your self-absorption... sister put finances on the line... accepting money for your defense... while you should be paying back your debt, you're getting your

Master's... Why wasn't your special assessment paid? I have gotten no check. Other defendants are indigent because they are feeding their families, but they do it... I've been doing this job for 19 years... people try their very best to make amends... why no money raised for restitution?

You've received enormous gifts from your community, but other than today's apology, what have you given back to Oregon? What about the employees of Jefferson Poplar? Destroyed... immature... self-righteous... misguided young adults... Did you talk to these victims? Get a grant? Get funded to make a difference? Or did you just Google it? You know better. You are not a typical defendant; your father is a police officer, a public servant. You targeted public servants... collateral damage... You were just afraid of getting caught. I understand you've extended yourself, taken positive actions. I commend it and I will consider it. I find it ironic that you support victimized women, yet in your communiqués you verbally victimize those with whom you disagree. I wonder if you ever called scholars in the Northwest about how to be effective and take positive action. Like the professors who wrote letters to the court on your behalf, most professors are incredibly generous with their ideas. I've learned a lot in my years on the bench... seen it all... it's called the human experience... How do you choose to respond? I question whether your newfound remorse is genuine. But you are not Block or Zacher. [!] Decide to lead an authentic and genuine life... take off the masks until the real Daniel McGowan is revealed... be the change you truly want to be. Don't use Gandhi just when it's convenient. I hope you'll go back to your website and tell who you were, what you did. You may not be as popular, but... change your website. Denounce, renounce and condemn. If you really mean it, it shouldn't be hard. To the young people, send the message that violence doesn't work. If you want to make a difference, have the courage to say how the life you lived was the life of a coward... It is a tragedy to watch these extremely talented and bright young people come in and do damage to industries. It's not okay to put people in fear doing what they need to do to survive. Take off the hoods, sweatshirts, and masks and have a real dialogue."

Judge Aiken sentenced Daniel McGowan to 84 months (7 years) in a federal detention facility, followed by three years of supervised probation. She applied the terrorism enhancement to the Jefferson Poplar Farm arson. She departed downward of the lowest end of the government's recommended sentence for the positive works Daniel is doing in the community.

## Notes from Jonathan Paul's Sentencing Hearing

author: flies on the wall

*Summary:*

*Jonathan Paul, 41, is charged with one count of conspiracy and one count of arson for the July 21, 1997 arson at Cavel West Horsemeat Slaughterhouse. His sentence is now in abeyance as lawyers go back and forth on paper one more time.*

## **Notes from Jonathan Paul's Sentencing Hearing, 6/5/07**

Assistant US Attorney Stephen Peifer for the government:

Jonathan Paul, 41, is charged with one count of conspiracy and one count of arson for the July 21, 1997 arson at Cavel West Horsemeat Slaughterhouse. The defendant is famous or perhaps infamous within animal rights circles, but he is not, according to Peifer, on trial for his politics. Jonathan Paul, according to the prosecution, is "not unlike anti- abortion extremists" who bomb abortion clinics.

Since 1986, Jonathan Paul has been "dodging bullets." "Not real bullets, except perhaps those of Joseph Dibee and Stanislas Meyerhoff" (an allusion to the alleged plot against Paul's life by others) but rather dodging accountability to the law. Jonathan Paul is a very wealthy man, according to Peifer, and he cannot blame his parents or Avalon (Bill Rodgers) for his current situation; "He can only blame himself."

On October 26, 1986, Jonathan Paul was involved with the theft of animals at a University of Oregon laboratory in Eugene. Paul took part in six months of planning, two "recon" missions and a preparatory break-in before the raid. He was prosecuted for this action but the charges were dismissed.

In 1987, Paul co-founded the Hunt Saboteurs Association, an organization that actively interferes with sport hunting.

On April 16, 1987, Paul took part in the arson at the University of California at Davis veterinary school. This is a public institution with state funding. Paul did reconnaissance on the building and acted as the driver. This was the first arson in the US attributed to the Animal Liberation Front. Paul was a "proto-arsonist" who inspired others to arson by this act.

In 1987, Paul acted as the driver at a raid against a Loma Linda Research Facility in Southern California.

In May 1987, Paul and others visited the Bureau of Land Management Wild Horse Corral in Litchfield, California. Using a saw, Paul cut away sections of the fence thus freeing the horses. There was no arrest; "Jonathan Paul dodged another bullet."

In 1988, and again in 1990, Paul also lived with Rodney Coronado, an ALF member who was later imprisoned for multiple arsons.

On April 3, 1989, Paul participated in an action at the University of Arizona in Tucson. Paul was the driver for this action. In an earlier bold "recon," Paul and another person dressed as lab workers and, during the workday entered the building and altered a door lock to provide later access. Over 1,200 animals were stolen and the property was attacked by arson. Again, Paul was not arrested and he "dodged another bullet."

In 1990, Paul was charged for the 1986 UofO burglary, but charges were dismissed on May 1, 1991.

On November 3, 1992, Paul was jailed in Spokane, Washington for civil contempt for refusing to testify in front of a federal grand jury. He was held for five months and became a "hero" and "inspiration" to those who "resist legal prosecution."

With his family's wealth, Paul bought property in Williams, Oregon where he lived until moving near Ashland. Paul developed relations with Joseph Dibee, Kevin Tubbs

and Darren Thurston. He dug ditches and blockaded roads at the China Left timber sale protest dodging another bullet, "albeit a small one."

In 1997, Paul met Jennifer Kolar at an animal rights event. Kolar was a student in Colorado at the time. Kolar became enamored with him and a long-distance romance ensued. Paul introduced her to the ALF and recruited her for the Cavel West arson. He and he alone recruited Kolar into "the family." Kolar subsequently participated in other arsons not

involving Paul, but "Kolar is the product of Jonathan Paul." In 1997, Paul wrote several checks to Kolar, and he paid her way to and from Oregon.

At an Earth First! Rendezvous in 1997, Joseph Dibee recruited Jonathan Paul for the Cavel West arson. His role was to make the fuel for the arson. Peifer asked, "Why attack Cavel West?" It was at the center of an animal rights controversy and was linked by an article in the LA Times and other press to the Bureau of Land Management wild horse project.

Marc Blackman, Paul's lawyer, objected to this on several grounds. There was no link between Jonathan Paul and the LA Times article. The terrorism enhancement issue was closed for the Cavel West arson (it did not apply) and so such arguments should not be made. Judge Ann Aiken responded that the information in itself was relevant, but that she understood her past rulings.

Returning to Peifer's presentation, he stated that Dibee was angry that Paul recruited Kolar, someone who was a stranger to Dibee, for the action. Kolar and Paul together made a mixture of glycerin soap and diesel fuel called "vegan jello." Containers were painted black and contained no fingerprints. The team met outside of Redmond and changed into disposable clothing. 30 gallons of fuel were used. According to Kolar, Paul set the device in the shed. After 45 minutes, one of the devices prematurely ignited (Peifer claims that this shows just how dangerous they were.) Returning to the staging site, participants poured acid on the clothes used and buried them. The fire was spotted by a bread delivery van and called 911.

At a nearby residence, two people were sleeping, Pascal Derde and Roberto Rezendez. Derde had walked through the Cavel West property around midnight. The device allegedly placed by Paul in the shed failed to ignite, and was discovered by Rezendez and another individual, Sancher. Several large propane tanks were nearby and this was of great concern to firefighters. Fighting the fire depleted two million gallons of water.

Peifer then displayed several photos of the arson. The residence, propane tanks and a fuel tanker on the rail line were pointed out, as was the shed with the unignited device.

Several newspaper articles were then introduced as evidence. The Bend

Bulletin article discussed the 40 firefighters and backup from Sisters, Oregon who responded; it mentioned that the plant employed 22 people. The Redmond Spokesperson quoted a commander for the firefighters as stating that it was lucky there was no loss of life; a sidebar discussed the fire's impact on water reserves.

Kevin Tubbs wrote the communiqué for the arson. Jonathan Paul was an early suspect, but he "dodged that bullet" until Kolar, Tubbs and Dibee informed on him. Following the arson, Paul was apparently not wanted back by the group. He was too reckless and "frankly, too arrogant." The arson caused over a million dollars in damage; Paul settled with Cavel West's insurers over his part. After the fire, Cavel West left Redmond which, Peifer said, Paul regarded as a victory.

After this arson, Paul was a public proponent of sabotage. He described the legal process as unworkable and likened the ALF with the Underground Railroad. At the Environmental Law Conference in Eugene in 1998, Paul likened burning animal labs to burning Nazi death camps. He apparently admitted to lying to the Spokane Grand Jury, and attacked those who cooperate with the government as "traitors." Kevin Tubbs was also at this conference.

In 1999, Paul was involved with and convicted for the disruption of a court-sanctioned whale hunt by the Makah tribe in Washington State. Peifer likened Paul's activity to that of "juveniles or drunks."

In March 2005 Paul again attended the Environmental Law Conference in Eugene, Oregon. He met Jacob Ferguson there and the conversation was recorded. Paul urged Ferguson to keep resisting the grand jury there, "It's the only honorable thing you can do. Fuck them." Paul also recounted in the recording his mistake of touching an identification card shown to him in 1989 by an FBI investigator, from which the Feds later obtained fingerprints.

Peifer again referred to the UC Davis attack as the "proto-arson" that encouraged another 20 years of arsons. He presented a 57-month suggested sentence to the court. He proposed an equal upward departure even if the terrorism enhancement was not applied. Upon showing how upward and downward departures would lead to a sentence of 57-71 months, he also suggested a truncated version of this process, starting

with the federal mandatory minimum of 60 months for arson and then simply agreeing to go down three months for Paul's plea deal. Paul's attorney Blackman, Peifer argued, had come very close to asking for less than the 37 months mentioned in the plea agreement. Peifer noted that Paul's sentence was linked to that of cooperating defendant Darren Thurston within the plea deals, but while Thurston had been thorough in his cooperation and naming of names, Jonathan Paul didn't come close to this in his cooperation.

Peifer then stated that Jonathan Paul should be compared to Shelly Shannon, who in 1992 torched a doctor's office merely because he performed abortions there. The doctor ended his practice after this. Shannon also refused to testify against others and refused to name names. She is serving a 20-year sentence; Paul should get at least 57 months.

Peifer closed his presentation saying that, as a leader in animal rights circles, he should renounce the use of fire. Peifer said that Paul has not done this.

Marc Blackman, attorney for Jonathan Paul, began his presentation:

Paul Bains, an attorney licensed in Oregon and elsewhere, was called before the court after a brief dialogue about his appearance (there had been some discussion about the possibility of Bains simply making a statement by telephone, but the timing of communications led to Bains appearing in person although this was not strictly necessary.) Bains stated that a lawsuit for recovery of loss by the insurer had been filed after Paul's arrest, and that Paul had resolved this with a very fair settlement for the loss, fulfilling his obligation.

After noting the presence of members of Paul's family in the courtroom, Blackman mentioned the letters they had submitted to the court.

Blackman then stated that it was necessary not to "romanticize" Cavel West even though its destruction was unjust. He mentioned the surveillance video of practices there that were in government discovery. This was briefly reviewed during Tubbs' sentencing but very little of it was played. Blackman noted that it was ironic that the government mentioned the water depletion arising from fighting the fire, as blood from the

slaughterhouse was known to be polluting the groundwater in the area. After the arson, the nearest neighbors complained of the foul odors that used to come from the plant. One former employee commented that he was "tired of working with a bunch of illegals," and Blackman used this to suggest that Cavel West did not provide quality employment at a living wage. In fact, a USDA meat inspector had stated in documents that the operation was a "company run by the Belgian Mafia." Blackman argued that one shouldn't justify the arson, but should be careful not to "gild the lily" in the other direction either.

Blackman then addressed Paul's wealth: Paul was hardly alone in benefiting from the wealth of a parent, but unlike many who used this wealth frivolously, Paul used it to promote his conviction that all life should be protected. It's interesting to note that others from these cases had complained that Paul was "too visible." This was because Paul actively funded his belief that all life is precious.

Although most of Paul's assets were of the sort that those wanting to collect a settlement "could not get at," this still did not stop Paul from paying his settlement to the insurance company in full. Paul sold real property to do this, "It's not like he just wrote a check."

Blackman discussed a 1999 letter that Paul wrote to The Oregonian newspaper. The letter was in response to an article that claimed Paul supported arson. Paul's letter stated that he never advocated or was involved in arson. Blackman stated that this was the renunciation which Peifer claims he never heard; although the letter's claim about past involvement was a lie, the rest of it summed up Paul's true feelings. Paul had spent the last eight years as a firefighter, earning him the deep respect of his community and even awards. Paul had tried to make up for the crime he had committed.

Blackman stated that Paul was the least involved with the crimes in these cases. There is no need to get into the claims made by Kolar, Blackman said, but as a lawyer

he would be concerned about putting her on the stand and cross-examination if he was a prosecutor. Blackman said that he made it clear to Paul that if he brought his charges to trial and lost, he would be looking at 60 months. Blackman stated that Paul should be distinguished from the other defendants, both cooperating and non-cooperating. Aiken had stated in past hearings that the non-cooperating

defendants "want to have their cake and eat it too," but in Paul's cases it is the prosecution that wants this—their suggested sentence is extremely close to what Paul would have received had he lost at trial, but Paul has taken responsibility for what he has done and helped to resolve the Oregon federal cases.

Again returning to statements by Kolar, he stated that they simply were not true. Kolar stated that Paul drove his own van in one of the actions, but Paul has never had a van. At the University of Arizona, Paul was there to release animals, not commit arson.

Blackman stated that this is one of the most difficult cases to rule on. Paul is someone who did something very bad, quite a while ago. After he thought that he had gotten away with it, Paul nevertheless did penance. Paul donned the gear of the firefighter. Blackman stated to Aiken that he didn't know how Aiken does it, that ruling on this case is extremely difficult. He doesn't think that the government had properly assessed all the variables in this situation. Blackman does not think that one can impose a sentence over the mandatory minimum in this situation.

Aiken clarified what she meant about having one's cake and eating it too. Six people have "stepped up" and cooperated with the government. Out in the community, their cooperation will follow them forever and they will receive a different sort of punishment. The non-cooperating defendants want to receive lower sentences but also want to avoid the sort of repercussions faced by the cooperators. Aiken then lectures about "random acts of violence." Aiken wants to know what sort of message is going out to the young people. She wonders why Jonathan Paul didn't use his wealth to draw attention to the issues in lawful and non-violent ways. She returns to the non-cooperation issue. Six defendants made the decision to cooperate, and four did not. "That's just a factor" in her sentencing, she stated. She respects the negotiations, but wonders if people are truly intent on changing or if they are just donning a mask to curry favor. She says that she hopes Paul will say something to "change people's behavior" away from "random acts of violence." The young people deserve real leaders. "Change tactics."

Blackman made a comment about what Paul has to say and that Aiken's remarks were prescient. He turned to the issue of Paul's non-cooperation and stated that the government still had the option of subpoenaing Paul

before a grand jury. "The irony of all of this," according to Blackman, is that even if Paul had been willing to trade information for government generosity, Paul had nothing to offer in terms of new information. The prosecution knows this.

Blackman discussed Jacob Ferguson's first debriefing with the government. It included a long list of crimes, but not Cavel West. In the second debriefing, there it



is. Blackman stated that he could have really shoved this fact down the government's throat if there had been a trial.

Blackman stated that Paul did not name names, as it was a matter of personal integrity to take responsibility for his own actions and not deflect blame onto others.

Aiken stated that she sees this in court every day. There are "the rules" about informing on others. A father sold out his son, but the son didn't sell out his father because of "the rules." Money is taken away from education and the community because it has to go into containing "tough behavior." She respects both sides of the legal arguments and has exercised discretion. She hopes for people to "turn down violence as a means of debate." "Violence never starts debate, it only ends it." She realize that the defendants have had to dig deep to figure out how they will portray themselves or reveal themselves at sentencing. She has to strike a balance and adhere to the guidelines and rules. "Regardless, I really hope that Mr. Paul has something profound to say." At this point, there is a break.

Upon return, Blackman addresses Paul's pre-sentence report (PSR). He wants "JP" to be removed as an alias for Jonathan Paul, as it is merely a nickname. Purdue, who took the lead in preparing the PSR, consents to this. Blackman wants the argumentative language in the overview of the offense to be removed. The reference to Cavel West as a federal crime of terrorism should also be removed, as should statements by Kevin Tubbs. These issues are taken into advisement. Blackman challenges information taken from Paul's disclosure to the government being used under Federal Sentencing Guidelines section 1B1.8.

Aiken sings the praises of Mr. Purdue and those working with him. He has an enormous workload and pressing time constraints. Purdue is professional and has a sense of humor. He met other obligations as well,

"enormous efforts"... The issues raised won't impact on this hearing, only the Bureau of Prisons (BOP).

Blackman returns to his criticisms of the PSR—more references to the terrorism enhancement, judgmental language in the characterization of victim impact, improper applications of guidelines, and a reference to the University of Oregon incident that shouldn't be there.

Purdue states that he will make revisions once the court makes its findings. The BOP will look at what is decided by the court and interpret the PSR in light of this. Aiken states that once she rules, revisions will be made. She agrees to write letters to the BOP for defendants.

Jonathan Paul then made a statement. Jonathan Paul admitted that his part in the Cavel West arson was a crime. While it would be dishonest to say that he regrets Cavel West no longer being in business, the ends do not justify the means. He apologizes for the pain and hardship suffered by the victims. The arson was motivated by horror and despair at the horses destined to be slaughtered for human consumption, to spare living beings who suffer unimaginably. When he saw the flames and damage, he knew he could not be part of arson any more.

Paul has been a firefighter since '99 and knows that arson is dangerous. "I crossed the line." He has not done so since. Paul will do everything in his power to share this realization. He will continue to act for humans and animals, and against environmental degradation, but with lawful means or with public civil disobedience. He has tried to make amends, serve the community and alleviate suffering.

He thinks of his sister Caroline, who he is "incredibly proud of." She was one of the first female firefighters in the Bay Area. He thought of her responding to a fire such as Cavel West. He thought of the firefighters who responded in 1997.

In 1999, he was made a lieutenant fire fighter. He declined the promotion at first, but in the end he was made to reluctantly agree. His knowledge of the inherent risks of fire only deepens his regret. His work as a firefighter became a newfound form of activism. He has become an emergency responder and EMT. He is proud of his skills and loved his work. He responded to approximately 2,000 calls. He put his feelings aside and

even rescued a bear poacher. He rescued a three-year-old kitten. Both are sentient and equal, he said. Paul regrets that he was unable to keep up with his training following his arrest and his license expired.

A pivotal turning point in Paul's life was when he met and fell in love with Tamara Drake. She is a paralegal and assists whale conservation litigation. They married in 2002 and built a life together. He did not share his "dark secret" as he was afraid he would lose her and that a cloud would be put over her lawful marine conservation work. They use solar energy and vegetable oil fuel—this is activism at its most basic level, leading by example. Paul apologizes to his family and thanks them for their love and support.

Paul apologizes to the fire service—his past actions were inexcusable, but his own work as a firefighter was always true. He wants to send a sincere message that what he did was "not OK." He will work for animals and the environment in public and transparent ways, and deeply regrets that prison will cost him his work as a firefighter.

After Paul's emotional statement, there was a break for lunch.

When court resumed after lunch, Aiken started doing her thing. Aiken stated that initially Paul seemed to "read" like the other non-cooperators, only doing what they had to. But she took a break to consider his words. "Believe me, I'm not trying to drag this out."

Aiken had listened to Paul's statement and found it thoughtful. "This is a classic case of good intentions gone wrong." If humans are going to use animals, it should be humane. But Paul had crossed boundaries, more than once, apparently.

"I'm not convinced that some of your co-defendants get it." Somewhat ironic that you put firefighters at risk. Congressional five-year mandatory minimum for arson. You meant to intimidate. Watched the surveillance tape of slaughter at Cavel West, "not pretty." Why not publicize it? Why not work with those whose water supply was affected? That takes real work, "rolling up one's sleeves" and doing work. But you just

decided to destroy the property of business and government. What happened to the horses?

They went somewhere else, maybe somewhere worse. "Actions didn't help animal rights."

There's something that hasn't been understood. "Generally, I honor negotiations." Block, Zacher, McGowan and Paul decided to limit cooperation. "That was your choice" and "choices have consequences." Others made their choice and face the detriment of being labeled as a "snitch." Non-cooperators decided to be hailed as heroes for keeping their integrity "so to speak." Non-cooperators face detriment of not getting the same sentence as cooperating defendants. Doesn't know what information Paul could have given. "Right or wrong, that's the system." "Don't put it back on me." Without the government offer, Aiken could not depart downward from the mandatory minimum. Doesn't like it when she keeps reading about the government overreaching in these cases. "Everybody could have rolled the dice at trial."

Aiken begins her sentencing calculations. One charge each of conspiracy and arson, conspiracy grouped with arson. Starts with offense level 6, goes upward 13 for amount of loss, 2 for more than minimal role in planning. Cavel West not an attempt to influence, coerce or retaliate against government, so no terrorism enhancement. Down 3 levels for accepting responsibility. Criminal history of 1. Upward departure for attempting to frighten and intimidate others. Won't do some complex up 30, down 25 levels calculation. Arrives at 57-71 months. Mandatory minimum of 60 months removed.

Further downward departures: circumstances different for each individual defendant. Aiken didn't go down more than two levels for any defendant, even cooperators. Not inclined to do so here. No basis for going downward with Block and Zacher. Gave McGowan the "benefit of the doubt" and went down one level. Giving Paul the same benefit. Down one level, 51-63 months. Goals of sentencing to punish, rehabilitate and community safety.

Aiken wants to take a moment because this is the last sentencing. Bemoans immaturity, lack of mentoring. "So many of you have much to give." "What's the message to young people?" The planet is worth fighting for, but don't break the law. "Walk the walk. [Note: abbreviated as WTW hereon] Practice what you preach. [... ] Do the little things." "Why is it that we make heroes out of bad people?" Don't live lavishly. Defendants "at a real crossroads." They will be haunted by their words if they don't WTW; we'll see if these were just words, or the final layer of a mask.

Paul's family stuck by him, love him. According to some psychologists, anger reflects an unmet need, "Let's meet needs." Lots of people hear what you have to say. Appreciated Paul standing up in court and renouncing arson. In the final analysis, it's all in your head, so be true to yourself.

Aiken talks about her experience doing drug court, talks about somebody who "finally got it." Volunteered to go into school and talk with children about his drug experiences. "I know when people WTW." It's these little successes that are important. "What role modeling."

Sentence given as 51 months for conspiracy and same for arson, concurrently. The usual conditions, but no restitution due to settlement. No contact with groups involved with illegal action, other environmental and animal rights groups okay, with approval. Aiken will write a letter recommending FCI Sheridan.

Blackman appears confused about Aiken's sentencing calculations. "How did we go up?" Aiken: "Then I'm not done." Break as Aiken tries to crunch numbers, return.

Aiken: "Calculations are important," begins again. States that she applied the upward departure for Cavel West frightening and intimidating others as with Kevin Tubbs. More sentencing grid stuff, 51 months in the end again.

Blackman: Refers to plea agreement, paragraph 9. He has right to appeal. Court had previously entered findings in Tubbs case and the upward departure was not for Cavel West. You can't ex post facto (after the fact) apply a justification for the sentence. After mandatory minimum has been overcome, should be by the sentencing grid: 27-33 months. The court's findings are binding; there is no authority to do this. Blackman urges the court to reflect and select an appropriate mechanism for sentencing.

Assistant US Attorney claims that there is "nothing political" about these sentences. Then why is there not truth in sentencing? Under *United States v. Booker*, the court has no justification for imposing this sentence. Aiken has made a fundamental error.

Aiken: "We're going to leave this open." Wants Blackman's best argument in writing. Blackman has until the 15th for his submission to the court, government has one week after to respond. Aiken insists that she referenced Cavel West when she departed upwards with Tubbs, regardless of how she referenced it. Reminds everyone that Paul entered into a plea agreement. Thanks Blackman for raising the issue. No date set for reconvening the sentencing.

Finally, a note of interest: Recently retired FBI agent John Ferreira showed up in court for Jonathan's sentencing. He was the lead investigator as early as the Detroit Ranger Station fire, and received many congratulatory handshakes from US Attorneys and others at their table when he walked into the courtroom. The government had sent out a press release and planned to hold a press conference at the courthouse after Jonathan's sentencing, crowing about their "job well done" in apprehending and sending to prison these members of the country's "number one domestic terrorist threat." Regardless of whether or not Marc Blackman's legal jiu-jitsu gets Jonathan a better sentence, the disgruntled look on Ferreira's face after the cancellation of his precious press conference was almost reward enough.

# The SHAC 7

On March 2, 2006, six animal welfare advocates associated with the group Stop Huntingdon Animal Cruelty (SHAC) were convicted in federal court of conspiring to cause financial damages to an animal testing company. The defendants were commonly known as the SHAC 7 before the government dropped charges against one of their co-defendants. The company Huntingdon Life Sciences (HLS) performs vivisection experiments on about 75,000 beagle puppies, rabbits, mice, and other animals each year, and kills 500 animals a day. The defense was not allowed to present any evidence that related to the cruelty of vivisection or reflected on the virtues of the SHAC protests.

The crux of the government's case was that SHAC used its website, which was taken offline following the verdict, to encourage others to commit crimes against HLS and its supporters. The group's campaign to get HLS to stop testing on animals or close down has had a large degree of success. Dozens of large companies, including The Bank of New York, Stephens Inc. and Marsh Inc. have pledged in writing to never have anything to do with HLS again.

On September 12, after a tirade of inflammatory rhetoric by the prosecution, impassioned speeches by the defense, and commentary by the court, the court handed down the following sentences:

Kevin Kjonaas: 72 months Lauren Gazzola: 54 months Jacob Conroy: 48 months

One day later, Joshua Harper was sentenced to 36 months and a week later Andrew Stepanian received a 36 month sentence and Darius Fullmer was sentenced to 12 months, 1 day. The additional day added to Darius' sentence is significant in that a sentence of over one year, given his Category 1 federal status, allows for potential early release, whereas a sentence of under one year would have meant that he served his sentence day for day with no possibility of early release.

In addition, the court ordered the (penniless) defendants to pay \$1,000,001 in restitution.

For a more personal summary of the sentencing, [click here](#).

[SHAC7.com](#)

Article: "Green is the New Red: How the Bush Administration Is Using Terror Laws to Prosecute Nonviolent Environmental Activists," by Will Potter

Eugene Weekly: SHAC Smackdown

# Grand Juries

*note: since state and federal grand juries differ somewhat, the following applies to federal grand juries since current indictments of the green scare are on the federal level*

Grand Juries are controversial seatings where a jury decides whether there is enough evidence to charge an individual with a felony crime. The Grand Jury dates back to 12th Century England, where they were abolished in 1933. The Grand Jury originally acted as a buffer between the monarch's prosecutors and the citizenry so that prosecutors could not just bring anyone to trial, but must first show probable cause to charge any given individual with a crime. Today, Grand Juries do not act as a buffer between the accused and the accuser, but rather act as a convenient conduit to bring someone to trial. This is so even to the extent that a former New York Chief Judge, Sol Wachtler, said that any prosecutor that wanted to, could indict a ham sandwich.

*The Process* When a Grand Jury begins, the jurors are not pre-screened for bias in the way that normal trial (i.e., petit) jurors are screened. Anyone, despite their biases for or against the target of the investigation can sit on a grand jury. Once the jury has been filled the prosecutor displays evidence and calls subpoenaed individuals (i.e., alleged witnesses) to testify. There is no defense nor a judge to mediate the hearing, and it is up to the prosecutor to direct the process. The subpoenaed individuals, despite Sixth Amendment guarantees, have no right to have counsel in the room where the grand jury is meeting, but may have counsel outside, interrupt the proceedings and meet with counsel before answering any questions. They may also plead the Fifth Amendment which protects the individual from incriminating themselves. Once this is done, however, the prosecutor may grant the individual "immunity" meaning that any testimony given during the grand jury may not be used to convict that individual (though that individual may still be indicted of that crime through other evidence or grand jury testimony). If the subpoenaed individual still refuses to answer questions, they are brought before a judge on contempt charges. If found in contempt of court, the subpoenaed individual can be detained through the duration of the Grand Jury, which can last up to three years.

*The Result* In the last few years, Grand Juries have been used more frequently to seek indictments for unsolved acts of property destruction against targets that were chosen for their negative environmental impact. Since federal investigators have little evidence to bring anyone to trial, Grand Juries became a tool to hunt for suspects by subpoenaing individuals in the environmental movement. They hope to turn their "guesswork into possible evidence" by subpoenaing vulnerable people like single mothers who can not risk being taken from their children. Grand Juries can also be used as

a form of harrassment as in the case of former Earth Liberation Front spokesperson Craig Rosebraugh who has been subpoenaed eight times to Grand Juries since 1997.

From May through November of 2006, Jeff Hogg was detained in prison for refusing to cooperate with a federal Grand Jury probably relating to the FBI's Operation Backfire. The Grand Jury was originally set to expire on September 30, 2006, but a motion for his release was denied and a motion to extend the grand jury until March was passed. He was released soon after several Operation Backfire defendants who turned police informant negotiated plea agreements with federal prosecutors.

No one currently knows how many grand juries are open and how many people have been subpoenaed to appear, but there are at least four grand juries currently open on the west coast. One which includes Jeff Hogg and at least five other individuals relating to Operation Backfire. A second in San Francisco where 10 people, ranging from animal and environmental activists to independent media members and progressives, were served in late-spring, 2005, with subpoenas to appear before a federal grand jury. This grand jury is viewed by these activists as an attempt to frighten activists and disable the animal rights and other movements. Outside of the environmental and animal rights movements, two other grand juries are in session in an effort to indict Ed Rosenthal on medicinal marijuana charges and one including Josh Wolf, who was jailed on August 1 when he refused to testify or turn over unpublished video out-takes to a federal grand jury investigating a July, 2005 anti-G8 demonstration. More information about current grand juries can be found at [FBIWitchunt.com](http://FBIWitchunt.com).

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