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Bush's War on Civil Liberties

by James Bovard

The following is a transcript of a speech given at The Future of Freedom Foundation's June 2008 conference, "Restoring the Republic: Foreign Policy & Civil Liberties" held in Reston, Virginia.

Jacob Hornberger: James Bovard, our next speaker, is the author of *Attention-Deficit Disorder, Lost Rights*, and seven other books. He has written for the *New York Times*, the *Wall Street Journal*, the *Washington Post*, *Reader's Digest*, and many other publications. The *Wall Street Journal* called Jim "the roving inspector general of the modern state." His book *Terrorism and Tyranny* received the Lysander Spooner Award for best book on liberty in 2003. At the Future of Freedom Foundation, we are proud of the fact that Jim serves as policy adviser for FFF and has been writing a regular monthly column in our journal *Freedom Daily* for some 15 years. The title of Jim's talk is "Bush's War on Civil Liberties." Please welcome Jim Bovard.

James Bovard: I want to thank Bumper for his kind words and for inviting me to speak at this conference. Bumper has been a good influence on me. He's kept me from becoming too moderate. It's great to see so many fine folks here. It's great to see so many folks came back from last year. It makes for a really wonderful audience here. But I was curious about one thing: I always try to get a sense of the audience. How many people here are guilty of treason? That's about the same count that I estimated. And how many people here are on the terrorist watch list? Sheldon, you're on the list. You should have raised your hand. That's actually about the right number.

I had lunch yesterday with Mike Chertoff, Homeland Security secretary. I gave him a list of the attendees and Mike ran to the computer. He said about 68 percent were actually on the list.

Well, actually, what Chertoff said was, “68 percent are on the list so far. And the fact that they came to this conference, I think that maybe adds to your permanent record.”

It’s interesting, on this notion of treason. It was on December 6, 2001, Attorney General John Ashcroft told the U.S. Congress, “To those who scare peace-loving people with phantoms of lost liberty, your tactics only aid terrorists, for they erode our national unity and give ammunition to America’s enemies.” This is how the Bush administration-- this was their de facto definition of treason: people who talked about the phantoms of lost liberty. And at the time Ashcroft said that, he was aware that the Bush administration had already started a massive illegal warrantless wiretap program here in the U.S., targeting Americans. But that didn’t count as a lost liberty because the government was doing it. After that, it didn’t matter what the government did; the real enemy was people who talked about losing freedom. And also, I guess those guys that are in Al-Qaeda. Those guys are also the enemy.

But if you look at the rhetoric of the Bush administration-- Ashcroft, Cheney, a lot of others-- look at where they focused their wrath. And it’s on people like many of those in this audience who have had the courage to speak up and say that the government is trampling their rights. The government has gone beyond its rightful bounds.

Now, part of the challenge of this speech topic-- I was looking at the title and this whole notion of civil liberties-- I’m wondering if it’s supposed to be a lecture on ancient history. I’m wondering if it’s some kind of quaint superstition from bygone times, because isn’t civil liberties what people were concerned about during the Clinton administration? And that was last century. And besides, he was guilty about the intern. It’s fascinating to see how far things have gone to hell in a hand basket on the freedom front. There are folks I’ve talked to in the audience. There was a gentleman from Wisconsin. I spoke there three years ago and it’s interesting, even in the past three years, how much worse things have become. There was an Associated Press report a few weeks ago that said that for at least 16 months after 9/11, the Bush administration believed that the Constitution’s protection against unreasonable searches and seizures on U.S. soil did not apply against its efforts to protect against terrorism. So basically, anything that was involved with terrorism was exempt from the Constitution. And this is what the Bush administration did at the same time that they were very vigorously attacking anyone who said the government was breaking the law or violating liberty.

Some of the examples on surveillance-- you’ll probably hear more about this later on in the weekend-- but since 2001, the FBI has sent out hundreds of thousands of national security letters, and these are basically warrantless demands. A person can receive the letter and they are instantly gagged. They were prohibited from even telling their lawyer. And if a person discloses they received one of these letters, they could be sent to prison for several years. And hundreds of thousands of these letters were sent out, and the FBI often lied when they sent them out. They

would claim there was an investigation; there wasn't. The Inspector General looked into this and found pervasive FBI perjury on this, but there weren't any crimes because they were federal agents; perjury is something that the private citizens do.

The warrantless wiretaps: Back in the summer of 2003, John Ashcroft campaigned across the nation in a Patriot Act salvation tour. There was a lot of beating up in the Patriot Act. John Ashcroft went all around the country. It turned out, most of his audiences were closed and often they were simply local police. And in many cases the press was not allowed to ask any questions. But this is how the Bush administration tried to save the honor of the Patriot Act. Another huge element: the warrantless roundup of e-mail. My impression from what I've read, the bits and pieces on places like Wired.com and others, the Feds apparently feel they don't need any warrant to round up U.S.-to-foreign e-mail, or e-mail that comes in from abroad. This is automatically some type of suspect category, and the information that they're storing, like this. And on another thing-- calling data records-- Congress in 1986 passed a law that prohibited the telephone companies from giving calling data records, in general, to the government without a warrant or without a subpoena. What's happened since 9/11 is that Verizon, a lot of other companies, have simply kept records of all the incoming and outgoing phone calls made or received by American citizens, and they have turned these records over to the government. And so you've got federal records of the phone activity of tens of millions of Americans, most of whom are not members of Al-Qaeda, but it didn't matter. The government did not even need a whiff of suspicion, but this is another huge step that the government took towards erecting a system of total information awareness.

Now, people with distant memories will recall, back in 2002, the Homeland Security czar at that time talked about that-- a former Navy admiral named Poindexter, who had been convicted for numerous charges in the 1980s, I think including perjury. I'm not sure if he was convicted of perjury; maybe obstruction of justice. They were overturned on appeal or they were pardoned by Bush or whatever-- Bush won-- but he [Poindexter] was put in charge of building up this massive surveillance system. But after the term "total information awareness" got out, there was a backlash. People were horrified. Congress was indignant, and so what the Bush administration did was fire that guy and change the name of the surveillance system.

And basically simply by changing the name, they've been able to perpetuate a lot of the same things that they were doing back then and they've taken it far further. There's so much data mining going on right now, on financial records, on phone records, and this is not information that they're looking at once to see if there were criminal ties or if you're getting wire transfers from Egypt; no, this is all part of your permanent record. The government has these massive data warehouses that they're stockpiling this information on, and you don't know how it's going to be used in the future.

And this is a key change in the nature of American liberty because the more information government has on people, the fewer people will have the courage to resist the government. This was true in the 1960s and early '70s with the Cointel program-- a massive program to target the anti-war movement, to target the blacks like Martin Luther King, targeting some white racists and other groups. But there was an FBI agent who said at that point that the goal was to make the anti-war people think that there was an FBI agent hidden behind every mailbox. And we haven't reached that point yet, but at this point it's easy to imagine there's a federal agent overseeing every Internet service provider. And any sense of sanctity of private data, it's gone. Because there have been very few companies that have the gumption to tell the government no, and when companies do, the government brings its wrath down upon them.

Another thing that's going on right now: the FBI is building up a network of 15,000 covert informants here in the U.S. to feed it reports about possible terrorists and foreign spies. It's kind of a problem when you get a network of 15,000 people to feed you information about terrorists when there are apparently not very many terrorists. I mean, it sort of turns into a self-fulfilling kind of thing, because if you look at many of the most high-profiled terrorism prosecutions since 9/11, they were basically government manufactured. This case down in Miami, of these boneheads who were out there asking for terrorist uniforms and wanted to hold a terrorist parade, basically. And these are the folks that the Justice Department is assuring us pose the greatest threat to the Sears Tower? I mean, these are folks who probably could not have even made it to Chicago, even if you gave them a bus ticket. I mean, these are folks who got lost in Memphis where they were supposed to transfer.

But it's a standard of what this country's become. The Justice Department made this one of their most high-profile cases and took it to a jury in Florida, and the government lost. But the government wasn't satisfied. The government brought in a new jury, a new case. They lost again. And they are bringing this case a third time. I mean, this is a legal atrocity. The folks who have been prosecuted, they're sure as heck not model citizens, but they are typical of a lot of the arrests since 9/11. These are people who would not have posed any real danger unless the government was feeding them and egging them on.

And there's a pattern on this going back a long ways in American history. There were a number of cases of violence in the 1960s that were done by government instigators. Government instigators would join groups and then urge them to become violent. And these 15,000 covert informants the FBI is building up, what is their code of conduct? Certainly, the FBI has a very dubious record on that in the past. And what would those informants get bonuses for? That's the thing: what is their incentive? Justice and fair play, this is not how you move up the FBI or up their network of informants.

Another thing that's going on right now: the Bush administration is pushing to create a new program to allow Pentagon spy satellites to pass on information about Americans to state and local law enforcement agencies. Needless to say, there would not be a lot of paperwork as far as warrants to be done with this, but this is the kind of surveillance that was long seen as completely illegal. But very few people are objecting to this in Washington right now. The thought of handing photos and Pentagon spy satellites to local law enforcement, it might cut down on the number of underage sex romps in Montana haystacks; but as far as having any real effect on public safety, it doesn't. But it's just one more way the government can tighten the screws on the American people.

Another example that's going on-- it's going to be happening across airports around the country now-- is that the Transportation Security Administration (TSA) has brought in a new type of screening machine, called the backscatter X-ray, which allows the government to see through people's clothes. And this is also something which could go on your permanent record, because if someone would trust the TSA not to keep dirty pictures, that's a real triumph of faith. And think of some of the movie stars or famous females going through there; what would their photo be worth? That's the kind of thing. But there's been so little controversy about this. This is something that editors don't want to hear about, in most cases. This is something which politicians are ignoring. It's one more example of how people are simply falling in line in this country.

Now, it's interesting to see some of the doctrines that are flourishing under the Bush administration. In a speech to the Fairness Society last year, Bush said that "When Americans go to court they deserve swift and fair answers." Unless, of course, the administration decides to give them no answers. Nothing illustrates this better than the state secrets doctrine. This is something that originated in 1950s after a crash of a B-29 bomber. The widows of the crash victims sued, asserting their husbands died because of government negligence. But the Air Force said that the official report of the crash revealed classified information that could not be disclosed without endangering national security. Well, 50 years later the actual report was disclosed, and it had nothing to do with national security. It said that the government screwed up. But the Air Force swayed the courts to accept this, and the Supreme Court rubber-stamped that doctrine.

And ever since then, this has been used in this country; it's spreading like a mushroom cloud. Something the Bush administration does is use claims of state secrets to prohibit torture victims from disclosing to their defense attorneys the specific interrogation methods that they suffered. A Justice Department spokeswoman said that letting a former Maryland resident tell his lawyer the methods that were used on him would risk disclosing potentially highly classified information that is vital to our country's ability to fight terrorism. It's been all over the papers, a lot of the methods the government has used, but it's still a state secret because the government says so.

State secrets were used to cloak the case of Khalid El-Masri, a German citizen of Lebanese descent who was vacationing in Macedonia in 2003. Bad vacation choice on his part. He was kidnapped by the CIA there. He was stripped, he was beaten, he was shackled, and he was flown to a secret interrogation center in Afghanistan where he was tortured for four months. The CIA eventually realized they had the wrong guy. It turns out that there was somebody in a terrorist cell in Hamburg named Masri, but this guy-- he was, like, a used car dealer in Frankfurt, and it was well known, it was very easy to prove-- but they still spent four months torturing the guy. After four months, he was flown to Albania, and he was dumped on the side of the road.

The European Union investigated and confirmed his allegations. The German government issued arrest warrants for 13 CIA agents in 2007 for their role in his kidnap and torture. Masri's story was all over Europe, and he was interviewed by "60 Minutes" and other American media. Masri sued the CIA chief Tenet, three private aviation companies, and 20 unnamed employees of the CIA and other affiliates. The ACLU, which took this case, said the Supreme Court should not allow the U.S. government to engage in torture, declare it a state secret, and avoid any judicial accountability. It went to a federal appeals court, which said the government did the right thing to sacrifice Masri's "personal interest for the general and collective interests of national security."

Now, these federal appeals judges did not explain how covering up this specific case made Americans safer, but it didn't matter. They were kowtowing to the government. In October 2007, the Supreme Court announced that it would not hear this case. It effectively banned Masri from American courtrooms. Apparently as long as the U.S. government has not confessed, it is a state secret. And this is a legal absurdity, and yet, this is what the government has gotten away with again and again and again. And this is a major reason why the full details of the torture scandal have not come out yet, because of the U.S. government using these arguments that don't pass a laugh test.

Yet you have these judges who are so complicit in tyranny at this point. The state secrets doctrine is also key to the wiretapping cases. Last year, a federal appeals court overturned a lower court decision that had condemned the National Security Agency's warrantless wiretaps of thousands, if not tens of thousands, of Americans. This was a case that was brought by individuals who believed their phone calls or e-mails had been intercepted by the government without a warrant. But the Justice Department claimed that these people had no standing to sue because the Feds refused to disclose whether they had actually violated these individuals' rights under privacy. A federal appeals court threw the case out. Judge Alice Batchelder, who was on the short list of nominees for the Supreme Court last time, wrote that the plaintiffs are ultimately prevented from establishing standing because of the state secrets privilege. This is a judge's version of frat-party ethics: as long as the government blindfolds its victims, it can do as it pleases. There were such bizarre convolutions to justify overthrowing this case, and yet it was

applauded by the *Washington Post* editorial page, which has been on the wrong side of many of the most important issues over the last six or seven years.

As far as civil liberties, as far as understanding how the government can treat people, can treat American citizens and treat everybody else, the torture scandal kind of summarizes how this nation and how perhaps American values have changed. People now face the prospect of being sentenced to death because of their own tortured confession or because of the tortured confession of other people down at Guantanamo or Afghanistan or other places. It's turning back the clock at least two to three hundred years: the thought of using torture confessions in judicial proceedings. It looks like it's out of a Monty Python movie, and yet not only is it happening in America at this point, in Guantanamo, but so far has not been very controversial. There are some people here who are speaking later this week who have done magnificent work on this issue. But overall, this issue has not gotten anywhere near the traction.

Now, it's interesting; from the first days after the Abu Ghraib photos hit the airwaves, the torture scandal epitomized the worst of the Bush administration. There were a timid media, a cowardly opposition party, a refusal by most Americans to face the grisly facts. There was a web of lies, a lawlessness, but this may be on the verge of unraveling. There are challenges from foreign governments, from some courageous U.S. military officers, and the Supreme Court still could come around and do something good on this. But it's frustrating to see that the media still act as if Bush deserves deference when he denies the U.S.'s involvement in torturing, or he says that the U.S. wouldn't do something like this.

In 2005, Bush repeatedly explicitly said the U.S. would not use rendition, which means seizing a suspect in one nation and transferring him to another country where he would be tortured. Bush was explicit on this. However, it turned out that the U.S. has been doing that en masse. There have been books on this. There have been documentaries. But it turned out that Bush lied on this through his teeth, and yet he's still treated as credible on the torture issue.

Now, it's interesting how the government uses the illegal doctrines and what it's done to achieve absolute power over an individual. There was the case of David Hicks, an Australian who was seized in Afghanistan and sent to Guantanamo in early 2002. Defense Secretary Rumsfeld said that Hicks was one of the most dangerous terrorists in the world. During his five years' confinement, Hicks was sexually assaulted, beaten with a rifle butt, kept in isolation in the dark for 244 days, prohibited from sleeping for long periods, threatened with firearms during interrogations, and psychologically tormented. Hicks's abuse became a major issue in Australia, where a Bush ally, Prime Minister John Howard, was involved in a hard fight for reelection. Hicks was the first person tried by the Guantanamo military tribunals. He faced the death penalty. However, the Bush administration wanted to help John Howard, so Hicks was allowed

to plead guilty to material support of terrorism and he was sentenced to nine months' confinement.

Now, this is the kind of penalty that's generally used for a drunk driving repeat offender. Instead, you have it used for this guy who Rumsfeld said was one of the most dangerous terrorists in the world. As part of his plea agreement, Hicks was prohibited from speaking to the media for one year, until after the Australian election. Hicks was also obliged to sign a statement declaring that he had never been illegally treated by any person or persons while in the custody and control of the U.S. and to swear that his guilty plea was done voluntarily, despite all the beatings he received. That summarizes it: lying about torture was the price of freedom for Hicks. The only way they would let him go is if he would sign these statements.

And my impression is that the same happens often in other terrorist prosecutions, and in a lot of other federal prosecutions as well. Now, it's interesting, there are still Congressmen and a lot of conservative talk show hosts who say that this concern about torture is all a liberal fantasy. Congressman Dana Rohrabacher of California-- whom a lot of people thought of as a fairly Libertarian Congressman-- even a couple of days ago, he was mocking an Inspector General's report on the abuses at Guantanamo, saying it was just like college fraternity hazing. Well, even bad frats usually don't kill that many people. And a lot of people have died because of U.S. interrogations in the last six years.

As far as how the Bush folks have tried to contain the damage from the torture scandal, they've tried a couple of different things. One is simply outright lying, saying that the U.S. government is not doing this, and second is using secrets to buttress their lies. Last October, the *New York Times* got a leaked Justice Department memo, from early 2005, which permitted the CIA interrogators to use "combined effects on detainees." These included head slapping, water boarding, frigid temperatures, manacled for many hours, and blasting them with loud music to keep them from sleeping for days on end. The *New York Times* said this was an expansion and endorsement of the harshest methods ever used by the CIA. This came out at the same time the Bush folks were saying, "We do not torture. We obey the law." But Bush very quickly came out and said, after the *New York Times* story came out, "This government does not torture people." He said that "We stick to U.S. law and our international obligations." But this is law as contorted by administration lawyers, and as some of their recent memoirs have shown, the Bush administration doctrine is that as long as there is one lawyer who will say to Bush, "Yes, this is legal," that's good enough. Rule of law now means to find a single bootlicking lawyer to applaud the president. The whole notion of checks and balances has been lost, and any notion of accountability.

Now, another fascinating part about this *New York Times* story: it detailed how, after 9/11, the CIA had constructed an interrogation regime by consulting Egyptian and Saudi intelligence officials and copying Soviet interrogation methods. It's interesting; for decades the U.S. condemned the Soviet Union for using torture. But interrogation systems designed to compel victims to sign false confessions are now the model for protecting America in the new century. It's hard to convey how much this symbolizes how this nation has changed. And it's great, the Future of Freedom Foundation has been in the forefront of organizations that have been uncompromising on this issue. And there have been a number of Libertarian organizations that have kept quiet on this, especially here in the D.C. area, or else they have come to it very lately. I mean, it's always sad if a Libertarian organization is slower than the *Washington Post* editorial page to condemn a government abuse, but this has happened a lot of times over the last few years.

Now, a final issue on the state of American liberty, American civil liberties: it goes to the question of the rule of law. And I think one of the biggest troubles we have in this country right now is that it is presumed that the U.S. president has a right to kill foreigners-- it's rarely stated that bluntly-- but just as long as he doesn't kill too many of them at one time, and as long as his spokesmen offer certain rationales. There are a lot of international obligations the U.S. signed that would curtail the U.S. ability to kill innocent foreigners. These seem to no longer be binding. To see the rules of engagement the U.S. has used again and again in Afghanistan and Iraq, there has been so little hesitation about just bombing houses full of women and children. And if you look at what the military courts-martial have effectively approved, almost all the murder charges in November 2005 in the village of Haditha, U.S. Marines went on a rampage. Twenty-four civilians, mostly women and children, were killed. At the time, it was a big outrage, but the cases have been dropped one by one. The government has plea-bargained stuff down to wrist slaps, and there's almost no outrage.

Two years ago, when the news of that massacre was first hitting the airwaves, Americans were shocked. Well, this is how we're fighting the war. Now it's buried in page A-27 if it's carried in the papers at all. And this is another sign of how Americans are becoming coarsened to government barbaric power. And it doesn't work to say, well, this is only abroad. I mean, it's not like this is going to have any recoil on us, because the stuff that we allow the U.S. government to do abroad will come back to haunt us. There have been so many atrocities which came back to permeate the U.S. drug war here at home, for instance. And there is an attitude towards human beings which the U.S. government has been showing in recent years abroad, especially in Iraq, especially in Afghanistan. And we see it now, there are so many politicians who are gung ho on attacking Iran, and it's never quite clear what the average Iranian has done; but there's very little doubt about how the U.S. government would have the right to kill them in order to teach their government a lesson or to break their government's power.

And so few people are asking, “Where did the U.S. president get this moral authority to kill foreigners?” Because it’s not in the Constitution. It wasn’t something the Founding Fathers believed; but this is a sign of how deferential people have become to the U.S. government and to the claims of the U.S. president. And these are attitudes that are absolutely irreconcilable with preserving a free society. This whole notion that the president has a right to order foreign attacks the same way that he gets to hear “Hail to the Chief” play when he enters a room: I mean, that is a level of automatic pilot that a lot of the American foreign policy thinking is on. Even seven or eight years ago, people would think that the intellectuals, the policy experts and others, would stand up and resist if the government was going towards barbarism. Well, that didn’t happen very much in the last six years. There were far more intellectuals who jumped on the bandwagon than stood out and called the B.S. for what it was. And because of that, that’s one more reason: it doesn’t matter who wins in November; the U.S. government is going to remain a grave peril to our rights and liberties.

And there is little evidence that Americans have learned much if any lessons from the debacles of the last six, seven years. If you see how the GOP is running their campaign, this strange notion that people want a third term from George Bush, I mean, that’s mystifying. But it’s based on almost a perpetual propaganda operation in which they never admit their failures and never admit that they’ve killed innocent people and never admit that they have tortured innocent people to death, and never admit what they have ordered other people to do. So far, the American people have allowed the Congress and the U.S. government to largely absolve itself from the war crimes and other abuses that have occurred over the last six years. And it’s a great sign that as many people have come out for this conference as have, because these are folks who would not let the government get away with that kind of thing.

But it’s puzzling why the abuses that have gone on have not resonated more. And if anything, what’s happened in the last six years is we’ve learned a lot more about the nature of American conservatism, and it’s a lot darker than many people suspected. There are a lot of individual exceptions, and some magazines, at least one magazine, that’s done some fine work. But to see what conservatives have embraced, to see how conservatives have embraced that expansive definition of treason that I started the talk with, to see how they have this instant push-button hatred towards any nation that the president says is an axis of evil, to see their utter intolerance—

George Bush did not like seeing protests; that’s an understatement. But something which the White House would do before Bush would travel to the place to give a speech, they would send out these little manuals and all of these guidelines on how they’re supposed to prepare for the speech. And there were all these things on how to make sure that troublemakers didn’t get into the speech. They were saying, “Well, it’s good if you have a clearance process, so on and so forth.” But they had a last line of defense, which really epitomizes how this nation has changed: If

the system failed and dissidents got into the speech, and if the dissidents started to make noise, then what the rally organizers had to do beforehand is have rally squads, basically young people who are ready to go to any place in the auditorium and chant "U.S.A., U.S.A." to drown out the protesters. And this is from the White House. This is official White House policy. This is how the White House wanted the local organizers around the country to respond to anybody trying to speak up during a Bush event.

And this is something which came out late last summer from an ACLU lawsuit. The news media paid almost no attention to it, but this symbolizes how this nation has changed in recent years. If Bill Clinton had done that, and if the news of Bill Clinton doing that had come out, can you imagine? Which we would have heard about from the nation's top talk show hosts every day for a month. Bush did it: page A-13, three paragraphs, right next to the ad for Home Depot. So it has no impact. But hopefully, there are still enough Americans who have kept some of the old values and appreciate, have a clear understanding of the danger of government power, that the government can be pushed back to its rightful place. But in the short term, things look bad, and I would think almost no matter who wins in November, we're going to have a lousy president for the next four years. <applause>

Anyhow, that's my two cents, and I'd enjoy hearing questions or hearing what people in the audience think. <applause>

Q: <inaudible>

James Bovard: I don't know.

Q: Jim, you're a hard guy to listen to <inaudible>

James Bovard: All right, thanks.

Q: A couple months ago, I got a link in an e-mail to a video, an online video, that looked like a documentary that might have been made in <inaudible> based on the accents of the people involved and the narrator. One of the videos was to make the case that Al-Qaeda didn't even really exist prior to the FBI putting some guy from the Middle East up on the stand in some kind of trial back in the late '90s. And <inaudible> the whole idea that all <inaudible> has an international network or web of terrorists bent on killing Americans. Are you aware of, maybe not the video, but that idea that Al-Qaeda was kind of a made-up idea and that Osama bin Laden himself was just a two-bit guy, that he may have been a rich guy that funded terrorism but wasn't the leader of a big network? Any idea whether that has any truth?

James Bovard: I've heard that allegation. I honestly don't know. It's sad to see how the Bush administration inflated Al-Qaeda after 9/11 and tried to make them almost like the new boogeyman. It's sad to see how many people swallowed the notion that Al-Qaeda posed practically as much or more of a threat than the Soviet Union did at the time they had thousands of missiles pointed at us. It's sad to see how few people challenge that story as far as exaggerating Al-Qaeda's peril, but as far as whether it's basically a federal invention? I've heard that; I don't know.

Q: I'm still baffled about these folks who have been imprisoned in illegal camps and tortured, and how they can somehow sign a statement as a deal in order to get released, that they can't speak. How can that contract even be enforced?

James Bovard: <Laughs>

Q: A contract is not valid if it's for an illegal purpose.

James Bovard: Well, unless the government did it. I'm serious on that. I think what happened with Hicks, he was still under confinement during that time in which they had prohibited him from talking to the press. So the government could keep an eye on him real good, I think. I think this is going to fall apart on them though.

Q: How did we actually find out about the case that you mentioned? Did he waive his—

James Bovard: On the Hicks case?

Q: Yes.

James Bovard: There was a lot of great coverage of this in the foreign media: I think the British media, probably the Australian media, some good stuff on some of the Internet sites in the U.S.

Q: But how did they find out about it if he had sworn to secrecy?

James Bovard: That was part of the plea agreement I think the government announced.

Q: So did he break his signed statement to not talk? That's my question.

James Bovard: I don't think he has done that yet.

Q: So how do we know that it even happened?

James Bovard: What happened?

Q: That he was tortured and then he was asked to sign this statement for his release?

James Bovard: Hicks did talk to people before the plea agreement, so Hicks gave out a lot of information, and that was part of the added pressure on the John Howard government in Australia and on the U.S. government on that; so Hicks had a lot of active friends. Hicks is kind of a funny case because prior to going to Afghanistan to join the Taliban, Hicks had gone to Kosovo to join the KLA, the Kosovo Liberation Army. It's kind of an interesting paradox. It's a paradox because the Kosovo Liberation Army was a former terrorist group that the U.S. government decided had become freedom fighters, whereas the Taliban was a group that the U.S. decided had become terrorists. I mean, the dude wasn't lucky. It's an interesting thing with U.S. procedures: If he's captured on the battlefield, that's one thing. But this whole notion of people captured on the battlefield that can be tortured and held year after year after year; I mean, there's no support for this in recent American history or in any recent international agreement.

Q: You're talking about all these security procedures that have been implemented. How come nothing really has been done with the borders and ports? Since the government is so concerned with ourselves, it doesn't seem like much has been done with the borders and ports. I was just wondering if you could maybe comment on that a little bit, and then I'll ask you the second one, which is—

James Bovard: I thought they were building a fence. I've heard a lot about the fence. I don't think it's too much of a trouble up in New Hampshire. The ports, they're doing some things different in the ports. They've certainly issued a lot of press releases about that. I don't know. I don't think there is a consensus they really cracked down that much on immigration at this point. I noticed the raids a week or two ago in Iowa. If I understood right, the U.S. government is charging many of the immigrants that they grab with a crime and threatening to send them to prison, simply for being an illegal immigrant, which seems like a really dumb idea, given the overcrowding in prisons; but I'm sure the government knows what they're doing.

Q: The second question, which is a lot more serious, is what kinds of steps have to take place? What kinds of things have to happen for this whole nightmare to start to unravel in a positive way?

James Bovard: <Laughs> I had a good answer and then you throw in that last phrase, you know? You really threw me off track there. Americans need a clear understanding of the perils of

government. This is something I've been harping on for a great number of years, and I haven't quite persuaded the majority of this yet, I don't think. But people look at the government through a very cloudy lens, rose-colored glasses, I don't know what, but people need to understand; it doesn't matter what party somebody is with, they're still a threat to the rights and liberties. And it's appalling to me to see that there has been so little backlash against the media, because there was that wonderful *New York Times* story in April about how most of the top experts, the former generals that they were using to comment on Iraq and Afghanistan, were actually being fed information off some false information by the Pentagon. And a lot of these guys were actually getting Pentagon contracts at the same time they were there, supposedly as independent commentators.

And it was a fraud up and down, throughout the networks and the cable stations, cable networks. And yet, as far as I know, nobody's head has rolled on that. There's been so much government media complicity, I would hope that would be one of the lessons people would draw from the Bush years, but they haven't done that yet. There seems to be this notion that once George Bush leaves the White House, everything will be safe. I mean, it was the same B.S. we heard back in 2001 when Bill Clinton left the White House. There were so many conservatives who were convinced that because George W. Bush was a family man that didn't chase skirts, that the nation had nothing to worry about. And it was utterly false back then, and it will be utterly false in January when the media tell us to trust the next president.

But as far as the steps that will happen as far as what needs to be done? People need to read more. People need to speak up. Americans need to show more courage. There was a line I had in the last chapter of *Attention-Deficit Democracy*, which they're selling outside. I was trying to be smooth; it didn't work. The thing we need in this country is to have the average Congressman fear a meeting with his constituents as much as the average taxpayer fears an audit with the IRS. <applause>

Q: And I think there are some places in the U.S. where Congressmen do shudder at the thought of meeting their constituents, but very few places. Anger is not a panacea, but certainly, by itself, if it's not guided, it doesn't really achieve much. But informed anger, and just to make some of these rascals feel Americans' wrath, that would be effective. <applause>

Q: So, short of the great unraveling that Brian was just talking about, and political reform and people getting involved and setting things right, what can the average citizen do? I'm not sure this is your department, but what can the average citizen do to protect his e-mail? Is there anything that we can do? Just do the best we can to make sure they're not building a database on us? Or is it hopeless?

James Bovard: Well, don't send e-mails in Arabic. There are some Internet service providers that are a lot better than others, I think, as far as security. There are some that do back flips to make the government happy with them. I don't have them off the top of my head. Comcast, I've heard. I don't know that Comcast is an ISP at this point, but they—

Q. Comcast is a bad one?

James Bovard: Yeah, oh, yeah. Comcast is way bad. And my impression is Verizon rolled over for the Feds on the warrantless wiretaps and had no troubles with that. As far as a simple issue, the issue of immunity for the telecommunications companies: This is something that Glenn Greenwald will be speaking tomorrow, has done a lot of great work on. This is a real litmus test, whether these telephone companies that violate American law, betrayed their customers, trampled peoples' privacy, whether they get a pass for violating federal law; these are folks that need to be held accountable. It would be great to see them prosecuted, either now or by the next administration, and to find out what the U.S. government told them. This is not an issue of immunity for private companies. This is an issue of the government allowing it to whitewash its own record. And it's great that liberals and a lot of leftists have done great work on this issue. It really hasn't resonated much beyond them, but this is a real telltale issue, and it would be great to see some of these CEOs who broke federal law wearing orange suits. <applause>

Q: Don't worry. I won't ask you about the Freedom of Information Act.

James Bovard: <Laughs> I was ready for you this year.

Q: <laughs> Actually, I was going to make a comment about Australia and John Howard. You said they conveniently waited for Hicks to give his story after the election?

James Bovard: Right.

Q: Well, it didn't matter because John Howard lost.

James Bovard: Yes, it was great. Great to see that rascal go down.

Q: My question is, though-- maybe you're not aware of it, maybe it's not even true, I don't know. I was listening to the great heroic talk show host Charles Goyette.

James Bovard: He's great. Charles is excellent.

Q: He and Scott Horton, from Antiwar Radio, are the best. I mean, that's all I listen to. I know he's here.

James Bovard: Also the best.

Q: Both of them are excellent. But I think he was quoted-- I think it was a British media, might have been the *Guardian*, can't really remember-- is that they actually have torture chambers on warships, or some type of ships, I don't know. Have you heard this?

James Bovard: Basically, all I know is what I read on Antiwar.com. I've seen a little bit on this. It doesn't sound implausible. The U.S. government told so many lies about the renditions. There were so many false statements about how they weren't grabbing people and flying them around the world to be tortured, so I assume the U.S. government has already said that it's false if they're using ships to hold people and to interrogate them. So I'm sure the government's right this time. But that's a huge story, especially if it's true. And I hope people will follow it out, and I hope that some more stuff can come out of that, because this whole notion of secret prisons around the world-- That was one of the worst things about the Soviet system. That was what the books on the Gulag, where it helped change the world opinion of the Soviet Union.

And now, as Amnesty International charged a few years ago, the U.S. government has its own gulag of these secret prisons scattered all over the world. Some of the worst interrogation abuses have gone on in Thailand, which has also done a great job of tyrannizing its own people at times. We have no idea what the U.S. government is doing in our name. And as free citizens, we can't afford to let the government do atrocities in our own name and say, "Well, we didn't know. Well, nobody told us." Well, that's B.S., because there are good information sources out there. And more importantly, people need to put the heat on the government to tell us what they've done.

Q: You mentioned the terrorist watch list. With apologies for being a little bit autobiographical: on my way to Europe last year, in the spring of 2007, on a German airline, I was pulled aside and told I had to be inspected. The man said, "I'll take care of it, sir." But he said, "You're on a watch list." So what I did is, I inquired. I used to have very sensitive clearances with friends of mine in very senior positions. And may I give you the report, that I am on a watch list, but this is the significant fact I wanted to convey to you and the audience, maybe for your reflection: I was put on that list by two foreign intelligence services. Did you hear that? I would prefer not to say that now in public, but you can well imagine what they are, and they're related to one another. I mean, they work together. But I was put on that watch list by two foreign intelligence services, and I was told by my friends that they were told I will not be removed from it. So I wanted to indicate that. I mean, it shocked me. They told me there were some things on it

that I can do, but I prefer to hide in the open. But I think it's a significant fact, especially from my own previous background and experience. The second thing I think might be of interest to you, or I'd like your comment on: the last time I saw you is when I was invited to a conference with Pat Buchanan and his neo-conservative <inaudible> with Terry Jeffrey. Well, during the interview, this was in 2004, I think.

James Bovard: I think it was April of 2005.

Q: Five, okay. But I went up to Pat during the break and we were talking about my mutual friend or our mutual friend, Sam Francis. But I asked Pat Buchanan to what extent he had written about or was informed about the revision of the military's unified command plan, especially the establishment of the Northern Command. And I was surprised to hear Pat say, "I don't know what you're talking about." And it was not the time to go into it, but I just wanted to raise some of the issues, a lot of this is in the open, but before even the Homeland Security Department was actually set up, there was a development of the Northern Command. You know where it's at, in Colorado Springs. It's headed by a four-star admiral or a general, and the area responsibility is largely in the continental United States, some Canada and some other things.

But I remember at the time when I was involved with some of these things, raising the question, "Well, if you're a four-star admiral or a general and this is your area of responsibility, you've got to have intelligence in your area of responsibility." And what are the implications of this? I mean, is our intelligence community going to be applied to doing this? But I have seen very little response from different groups. There are certainly a lot of classified things about it, you can look at the unified command plan and what NORTHCOM is, they've made some revisions since it was first up, but Pat had no idea about it. My question to you is, are you aware of this, and have any reflections about a military command, not homeland defense?

James Bovard: I know a little bit about it, but not that much. It certainly has a bad odor to it. It's the kind of thing where you don't know that the government's probably gathering up a lot of information it shouldn't be having, especially the military. But to go to your first comment on the terrorist watch list, I think the list right now is up to about 900,000 names. And again, most of them are not terrorists. And there are questions about what is the standard for putting someone on that list, and it's very likely there are a lot of people being put on that list simply because someone didn't like them. It might be getting towards the old system they had in Bucharest under Ceausescu, where it was easy for someone to finger their neighbor and make any kind of nonsense report, and all of a sudden, that person is targeted. Being on the terrorist watch list, it causes problems. If you travel, it could cause problems with your bank account. It could do a lot of things to mess up your life. And yet, aside from a handful of liberals, very few people have

really put their shoulders behind this issue. But that's a great example, and I appreciate your telling us. Thanks for your courage in speaking up on that.

Q: I'm an engineer in the space industry. And I'd like to paint an even bleaker picture than you do. I work in the scientific community, not on black projects, but I know people that do. And they can't tell me what they do or they'll have to kill me, and I'm here. When I talk to these people and I kind of relay my concerns to them, they look at me with an air to, hey, you know what you're talking about, but they can't say, they can't nod, their eyes tell everything. I think in my discussions with these people, all the electronic communications go through the alphabet agencies, period. So we're in a much bleaker circumstance as a country. These are people that I trust. And I'm frightened of my government, and we shouldn't be. And as an individual, I don't know what to do; but hopefully-- I'm talking to friends and informing people-- but it is almost, to me, it's like we're in a fascist regime. We're nearly like the Stasi mentality, in the East German Stasi. It's extraordinary that we've gone this far. And I hail from Pittsburgh originally. And I remember, we had a lot of World War II vets around. And I was seven years old in my neighborhood. We had the World War II vet that befriended me. He was a really nice gentleman, kept to himself, grew a garden. He befriended me. And we got to be friends for three or four months, but he said, "If there's one thing you could do for me," he said, "It's not to give away your freedom." He said, "Not to give away your freedom." He had his friends cut in half for us to be free, and we've just handed this over. And I think a lot of people are frightened, and I think we shouldn't be.

James Bovard: People need to have courage. That's a great point, don't give away your freedom. Have the courage to not bow down when the government tells you to be frightened on cue. But I'm getting signs telling me to stop, so I'll draw the curtain of mercy here. Thanks for being such a great audience. <applause>