



President George W. Bush Jr. post-9/11



Federal investigators from the Joint Terrorism Task Force enter the home of Professor Steven Kurtz in Haz-Mat suits May 11, 2004

DISCIPLINING THE AVANT-GARDE

The United States versus The Critical Art Ensemble

GREGORY SHOLETTE

It's vitally important whenever we think about insurgency to remember that the essence of any insurgency and its most decisive battle space is the psychological. In the 1960s, insurgency was referred to as armed theater, which I think is a really poignant way of thinking about it.

—Steven Metz, U.S. Army War College Strategic Studies Institute.¹

*There's somethin' happenin' here.
What it is ain't exactly clear.*

—Buffalo Springfield

1. Birth of the Homeland Security State Apparatus

It has been three and one half years since President George W. Bush proclaimed, “you’re either with us or against us.”² Since that time the neo-liberal ‘revolution’ has undergone a re-Balkanization in the United States. Gone is the ideology of fluidity and openness that presided over the post-Cold War years and in its place comes a

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new nationalist spirit complete with rising trade tariffs and a variety of seemingly expedient security measures that have evolved into a new way of life.³ From no-fly lists to ubiquitous public surveillance, from severe visa and immigration restrictions to the fingerprinting of tourists, ‘bunker America’ is replacing the fantasy of globalization. Even unilateral military action is justified as a preemptive defense of the homeland. Meanwhile, the rest of the world is offered Pax Americana, a sanctimonious sop revealing perhaps what was at stake all along, nothing less than global supremacy. Less well known at home, however, thanks to guilt-free ‘happy’ news and embedded reporting, is the targeted suspension of habeas corpus and mass cataloging of thousands of Islamic, Middle Eastern, or North African people inside the country. Thousands of individuals have been detained without trial, others deported, and some have been sent abroad into ‘extra-judicial’ zones within Pakistan and Syria where human rights do not stand in the way of extreme interrogation methods.⁴

It comes as no surprise therefore that those who publicly question aspects of the new, homeland-security state apparatus also find themselves victims of government investigation and intimidation. While certainly not on par with disappearances and torture, scores of artists, journalists and academics, including several high school students, have been questioned recently about alleged anti-American activities by a variety of Federal and local law-enforcement officials. In at least one case, the one that concerns this essay, the U.S. government is aggressively seeking to portray a group of contemporary artists known for their politically provocative, yet legal and Constitutionally protected art, as a full-blown terrorist threat to the national security.

Since 11 September 2001, the FBI and the Secret Service have interrogated gallery curators in Chicago and Dallas for displaying images they deemed suspicious; accused a Nevada man of “borderline terrorism” because he had a bumper sticker that read “KING GEORGE – Off With His Head”; detained and questioned a Colorado highschool principle for permitting students to sing the Bob Dylan tune Masters of war during a public performance; and the culture-jamming group AdBusters were questioned by government agents over a flag-like billboard they installed in Times Square. Secret Service agents even prevented two teachers from attending a Bush rally because they wore t-shirts printed with the words “Protect our civil liberties.” The atmosphere of enhanced public security has apparently also emboldened some local law enforcement to disregard this very advice. Police in Albany arrested a man for wearing a peace sign on his T-Shirt; a young man was arrested outside an Armed Forces Career Center in Boston for dressing up as a U.S. torture victim in Iraq; six men were arrested in Pennsylvania for creating an Abu Ghraib-style human pyramid as the President’s motorcade drove past; and in August 2004 during the Republican National Convention the New York Police Department went so far as to take thousands of people into custody, holding them long

past the legal twenty-four-hour limit in appalling conditions at a concrete and steel pier on the Hudson River.

Probing calls from Federal agents to university administrators have added to a chilling climate of suspicion within academia already apprehensive over Congressional debates about alleged anti-American curricula and over student groups like the ultra-conservative Campus Watch, who openly stake out 'liberal' instructors in order to document their so-called Left bias. Professors at universities in New Mexico, Houston, Urbana-Champaign, South Florida, Upstate New York and even Columbia University in New York City have discovered that raising questions about U.S. policy, about Israel, about 911 and homeland security inside the classroom can bring on disciplinary action and even dismissal. Regrettably, several university museum directors at Arizona State University, the City Museum of Washington, and Ohio University have gone so far as to actively self-censor their own exhibitions by removing socially critical work or by adding art that reflects a 'conservative' point of view. Meanwhile, the firing of several prize-winning journalists effectively demonstrates that challenging Bush administration policy even from within mainstream media can have considerable consequences.⁵

The most alarming of these cases so far is certainly the U.S. Attorney General William Hochel's unrelenting investigation of artist Steven Kurtz and his former colleague, Professor Robert Ferrell. Kurtz is a professor of art at the University of Buffalo in New York. He is also a co-founder of the Critical Art Ensemble (CAE), an artists' collective that dates from 1986 which has become known for its multi-media projects splicing Brechtian pedagogy onto the comedic diligence of a Mr. Wizard.⁶ Donning white lab coats and assuming the personae of amateur scientists, they arm themselves with highschool lab equipment as well as common household supplies and groceries in order to demystify, or more to the point, democratize the increasingly privatized worlds of science, technology and information networks. These often-playful routines contrast with the serious intent and analytical approach of the group's numerous books and manifestos. In Electronic



Incomplete Installation by Critical Art Ensemble in The Interventionists exhibition at MASS MoCA, June 2004; note that most of the work was already in the custody of the FBI.

Civil Disturbance, CAE celebrates anti-corporate, ‘slacker’ Ludditism and in Digital Resistance they provide plans for making graffiti-writing robots and reprogramming Nintendo games so that children will gain “the means to bring about a situation in which a process of broad spectrum invention, discovery, and criticality can occur” (page 139). Whether in a museum, an international conference, on the street or in print, the CAE’s work unvaryingly aims to inform, entertain and demonstrate the value of public knowledge.

For the past several years the group has focused attention on what they see as the misuse of biotechnology by private corporations operating outside the realm of democratic, public debate. CAE’s tactical response is what they term, ‘Fuzzy Biological Sabotage’ or FBS, a type of sophisticated, prank that uses harmless biological agents including plants, insects, reptiles and even microorganisms to operate in the gray, in-between spaces as yet unregulated by institutional regimes.⁷ In 2002 the group demonstrated one form of FBS in the project Contestational Biology, which was developed in conjunction with artists Beatriz de Costa and Claire Pentecost and installed at the Corcoran Art Gallery in Washington DC. Contestational Biology consisted of an ‘amateur’ scientific experiment that ‘reverse engineered’ samples of the Monsanto Corporation’s Round-Up Ready corn, canola and soy products, three of the many genetically modified organisms rapidly being integrated into modern agriculture industry. The ultimate goal of the installation, however, was to raise public awareness about the sweeping privatization of the human food supply by directly contesting Monsanto’s right to create and patent customized life forms for corporate profit.

All of CAE’s writings and projects converge around a single objective: a sustained effort to de-familiarize forms of civil disobedience in order to re-invent new ways of responding critically to contemporary, social and political reality. They insist therefore that,

Outdated methods of resistance must be refined, and
new methods of disruption invented that attack power
(non)centers on the electronic level.⁸

Strongly influenced by the theories of Michael Foucault and Giles Deleuze, CAE perceives political power as operating more or less anonymously within, or across, a deterritorialized, postindustrial environment. In light of this, most past forms of activist confrontation are largely useless. Out of necessity therefore, political resistance must adapt by appropriating the same evanescent digital networks as corporate and state power, while endlessly recalibrating their critical interventions in the form of ‘tactical media’.

According to David Garcia and Geert Lovink ‘tactical media’ occurs whenever cheap, ‘do it yourself’ media, made possible by the revolution in consumer electronics and expanded forms of distribution (from public access cable to the internet), are exploited by groups and individuals who feel aggrieved by, or excluded from, the wider culture.⁹

CAE's signature approach to tactical media is a decidedly self-reflexive one in so far as the group frequently applies do-it-yourself (DIY) maneuvers to science and technology in order to reveal the underlying, ideological administration of knowledge itself. At the same time, the group links tactical media to a distinctly anti-modern form of 'cellular' collectivism and political autonomy.¹⁰ For now, I want to underscore the significance to CAE of this avowed amateurism while suggesting it may also be playing a central role in the group's recent predicament with Federal authorities.

CAE has stated that,

Amateurs have the ability to see through dominant paradigms, are freer to recombine elements of paradigms thought long dead, and can apply everyday life experience to their deliberations. Most important, however, amateurs are not invested in institutional systems of knowledge production and policy construction, and hence do not have irresistible forces guiding the outcome of their process...¹¹

For a thirty-three-billion-dollar homeland state-security apparatus dedicated to patrolling the periphery and reinstating war-time discipline, such calls made by self-acknowledged dissidents for the founding of new, amateur forms of 'fuzzy' resistance may seem merely curious. Or they may appear outright devious. As military theorist Steven Metz argues, the essence of insurgency is not seizing territory, but rather sending messages to a wider audience through a type of politicized theater.¹²

2. Art is not terrorism

On the morning of 21 May, 2004, Steven Kurtz awoke to find his wife Hope lying unresponsive beside him. Kurtz immediately called paramedics. On arrival, the medical response team took notice of assorted laboratory equipment in the home, including Petri dishes, microscopes and test tubes. Nervously, local police alerted the FBI. The Joint Terrorism Task Force soon descended on the Kurtz home and in a scene reminiscent of the 1971 techno-thriller *The Andromeda Strain* agents wearing white Haz-Mat (Hazardous Materials) suits cordoned off the house, confiscated the body of Kurtz's wife, and gathered a variety of materials for scientific analysis. They also impounded the artist's passport, lesson plans, books, automobile, computers, and his cat.

By the next day the New York's Commissioner of Public Health officially reported that nothing hazardous was discovered in the home and no danger to the public existed. Hope had

Incomplete Installation by Critical Art Ensemble in The Interventionists exhibition at MASS MoCA, June 2004: note that most of the work was already in the custody of the FBI.



United States District Court
Western District of New York

TO: Beatriz DaCosta (05/04 GJ) #2004R00523-23

**SUBPOENA TO TESTIFY
BEFORE GRAND JURY**

SUBPOENA FOR:
 PERSON DOCUMENT(S) OR OBJECT(S)

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE 138 Delaware Avenue Buffalo, New York 14202	COURTROOM Federal Grand Jury DATE AND TIME June 15, 2004, 9:30 am
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YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

Please call Sharon Knops (Witness Coordinator) at 1-800-320-0682 to make any travel arrangements and to confirm the date of your appearance. Please see attached Form OBD2.

Please see additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK <i>Rolney C. Early</i>	DATE 5/27/04
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THIS SUBPOENA IS ISSUED ON APPLICATION OF THE UNITED STATES OF AMERICA
MICHAEL A. BATTLE
UNITED STATES ATTORNEY
WESTERN DISTRICT OF NEW YORK

NAME ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY
William J. Hochul, Jr., Assistant U.S. Attorney
138 Delaware Avenue
Buffalo, New York 14202
716/843-5700 ext. 887 *WS 4*

* If not applicable enter "none"

Subpoena delivered to CAE collaborator at the opening of the Interventionists exhibition

died of a heart attack. Nonetheless, the house was under quarantine for six days during which time Kurtz was placed under surveillance for twenty-two hours. FBI agents did not arrest him, but put him up in a hotel, together with collaborator and family friend Claire Pentecost, who recently arrived from Chicago. The agency even purchased Kurtz dinner with the hopes of uncovering more information. At one point Pentecost was taken aside and asked if Kurtz had ever advocated the overthrow of the United States government.¹³

At the time of his wife’s tragic death Kurtz and CAE were finishing work on a project entitled Free Range Grains involving a do-it-yourself DNA-extraction laboratory for testing for the presence of genetically altered genes, or trans-genes, in store-bought groceries. The project was to have been installed in an upcoming exhibition entitled The Interventionists: Art in the Social Sphere at the Massachusetts Museum of Contemporary Art.¹⁴ It was the presence of these laboratory materials, together with three types of harmless bacteria procured for the group’s next project about the history of U.S. bio-warfare programs, which led to the investigation, because prior to the unexpected death of his wife there is no evidence Kurtz or CAE were of interest to the FBI.¹⁵

Eventually, Hope’s body was returned for burial, but the FBI retained the artist’s passport, books, and computer. Still, up to this point, the incident appeared to be a case of jittery officials who, in the aftermath of the still unsolved anthrax mail murders of 2001, reacted to the discovery of a premature death and the presence of unexpected lab equipment with an indiscriminate response. That was the assumption at least until several CAE members and collaborators were handed subpoenas by Federal agents at the Mass MoCA opening that directed them to appear before a Federal Grand Jury last June. Nine people were served subpoenas by June, and while neither the FBI nor the Attorney General would make public the details of their probe, it was evident from the wording in the documents that Kurtz was being investigated under U.S. Code Title 18, Part I, Chapter 10, Sec. 175: Prohibitions with respect to Biological Weapons. The scope of this statute was greatly expanded by the USA Patriot Act of 2001. So much so that some speculate even the harmless, research bacteria of the type Kurtz obtained for CAE art projects might now be labeled as a hazardous ‘biological agent’.

Commenting on the potential charges, Donald A. Henderson, Dean emeritus of the Johns Hopkins University School of Hygiene and Public Health, pointed out that,

...based on what I have read and understand, Professor Kurtz has been working with totally innocuous organisms...none of the organisms noted to be present in this case are covered, nor should they be, by the post-9/11 provisions.¹⁶

To the surprise of no one who knew Kurtz or the work of CAE, after it met on 15 June the Grand Jury rejected all charges of bioterrorism. Once again, the unpleasant incident appeared about to conclude, with Kurtz anticipating a public apology like that extended to Brandon Mayfield, the Islamic convert from Oregon who was escorted in handcuffs from his place of work and accused of involvement in the Madrid train bombings.¹⁷ Optimism was short-lived, however. On 22 June, CAE's publisher, Autonomedia, was subpoenaed, indicating the investigation was not yet over.¹⁸ Before long, Kurtz and Farrell found themselves facing up to twenty years in prison on downsized charges of mail fraud for the alleged mishandling of bacterial samples purchased from a scientific supply house.¹⁹ As of this writing the investigation grinds on still, and renewed charges involving bioterrorism may be lodged soon following a second Grand Jury hearing on 19 April, 2005.²⁰

The public sully of a white and otherwise privileged academic's reputation is not unique these days. Doctor Thomas Butler, a world-renowned specialist who researches bubonic plague, has also received similar treatment by Federal officials. In January of 2003, Butler noticed thirty vials of the bacteria missing from his lab. Assuming the samples were misplaced, but erring on the side of caution, he reported their absence to the FBI. As someone with a history of security clearance, he trusted the government and signed away his rights to legal defense. He was then arrested. "I was tricked and deceived," said Butler on CBS's 60 Minutes. "I was naïve to have trusted them and the assurances they gave me." Butler was charged with sixty-nine criminal counts, including everything from bioterror to tax evasion, and even though the sixty-two-year-old scientist was, like Kurtz, acquitted of all terror-related charges, he was instead indicted for financial misconduct and has lost his job, his doctor's license, is financially broke, and still faces several years in prison.²¹ The National Academy of Sciences and the Institute of Medicine sent a letter to the United States Attorney General warning against "...the impact that Butler's case may have on other scientists who may be discouraged from embarking upon or continuing crucial bioterrorism-related scientific research."²²

Meanwhile, state intervention aimed at regulating scientific research has been increasingly visible of late. The Bush administration demanded the right to approve all U.S. scientists selected for the World Health Organization; the U.S. Department of Health and Human Ser-



Doctor Thomas Butler with his daughter prior to being incarcerated.

vices blocked scientists from traveling to the International AIDS Conference in Bangkok; and in March of this year, the U.S. National Institutes of Health (NIH) received a letter charging it with creating “a crisis for microbiological research.” The letter was signed by more than half of the scientists whom the NIH helps employ.²³ The charge of promoting ‘junk science’ and manipulating data is now increasingly being leveled at the White House, including recently by twenty Nobel Laureates.²⁴ David Schubert, head of the Cellular Neurobiology Laboratory at the Salk Institute for Biological Studies in La Jolla, went so far as to say that there has been,

...an unprecedented assault by the executive branch of our government upon the ability of U.S. scientists to freely share their data and insights about our world with the public. Much of the justification for this repression of scientific communication falls under the Orwellian concept of “sound science,” which is clearly understood by the scientific community to mean the misrepresentation of scientific data to reflect the administration’s political and social agendas.²⁵

All the while this dampening effect is taking place with regard to certain types of scientific research, and as restrictive prohibitions are enacted on information sharing, the U.S. government’s spending on biological-weapons research has reached unprecedented levels.²⁶

Unlike many people who have been investigated or outright disappeared since 9/11, the members of CAE are reasonably well known figures within the international art world. Moral and material support has arrived from dozens of countries, and a recent auction of artwork by artists such as Hans Haacke, Andrea Fraser, Martha Rosler, Carl Andre, and Joseph Kosuth among others was staged at a major Chelsea art gallery in New York. Yet, while the Kurtz / CAE case has received a relatively high degree of attention in the mainstream press and within the art world, criticism of the Federal government for its handling of this case has not been nearly as intense or widespread as the outcry during the so-called ‘culture wars’ of the 1990s.²⁷ Gradually, however, these disturbing stories are beginning to align and in the process provoke an inevitable question: is the United States re-entering a period of political and cultural repression like that experienced during the Palmer Raids of the 1910s or the McCarthy era of the 1950s? Without denying the possibility of a return to such overt political tyranny, I think it necessary to make this all-too-convenient hypothesis more problematic.²⁸

For one thing, the abuse of civic and human rights has been an enduring feature of U.S. military and law enforcement throughout our history, from Wounded Knee and the conquest of California, to the annexation of the Philippines on up to the present. What has not happened to white, middle-class Americans since the early 1980s is the systematic retraction of constitutionally guaranteed civil liberties. At that time the FBI investigated and infiltrated US-based supporters of political refugees from El Salvador. For another thing, the very threat



Counter-globalization demonstrators
circa 2003

of such a return to the bad old days is useful in itself as a type of disinformation. Panic drove many in the 1950s to abandon hope of a constitutionally based, legal defense. Self-censorship and political resignation soon followed. Even the Communist Party USA, the primary target of the government's assault, concluded it was better to go underground than publicly face what was wrongly theorized to be the rise of full-blown American Fascism.²⁹ An ideological battlefield was quickly transformed into a game of shooting fish in a barrel.

Therefore, perhaps a better way to phrase our hypothesis is to ask why it is that the post-911 ideological landscape and the CAE investigation appear at once so familiar and simultaneously so very strange?

3. Managing Dissent

State intervention into the production and distribution of culture is as enduring as the history of nations is long. Think of Plato's injunction against poets and painters in his ideal Republic or Stalin's decree enforcing Socialist Realism in mid-1930s, as well as, of course, the House Un-American Activities Committee's witch-hunting of Hollywood radicals in the 1950s. Modern bourgeois societies have evolved two seemingly contradictory modes of state control. One of these is the isolation and overt suppression of select individuals, groups or ideological positions allegedly carried out in defense of the freedom or morality of an alleged majority interest.³⁰ This type of explicit control reappears cyclically in the United States, especially whenever government or big business is threatened by collective dissent emerging 'from below'. Its most recent full-scale manifestation took place immediately after World War II when militant labor unions, communists, and other Left radicals, grown strong during the anti-fascist Popular Front years, were systematically eradicated through a combination of legal and extra-constitutional measures. Before it was over, thousands of men and

women were investigated, lost their jobs and / or were blacklisted in the name of freedom and democracy.³¹ Many of these people worked in the culture industries and academia. While such overt repression is extremely effective in the short-run, the same establishment that unleashed it will eventually denounce tyranny as antithetical to the free society it claims to protect. So even as the hammer of law enforcement was descending on individual radicals and nonconformists, a subtler means for managing dissent was coming to fruition. After all, the Cold War was, aside from some hot moments in Greece, Korea and Cuba, primarily a battle over which system could deliver a superior way of life to its citizens. Government leaders may have sought to overcome the missile gap, but just as significant were gaps in refrigerator, stove and automobile production. Not surprisingly there was also a culture gap. As Eva Cockcroft, Serge Gilbaut and others have demonstrated the U.S. State Department actively supported the display and export of American art abroad. This included avant-garde painting and sculpture, which became a global advertisement for capitalism's apparently infinite tolerance of artistic expression and individual freedom.³²

It comes as no surprise therefore that capitalist marketing barely broke stride as the counter-culture blasted onto the Cold War stage during the late 1960s. Not the state, but corporate America led the way this time by converting from the production of goods to the selling of lifestyles. Patched and faded jeans, Che Guevarra accessories and the homely VW Beetle were soon the ultimate symbols of hip or what Tom Frank describes as a counter-cultural capitalist orthodoxy.³³ And while resistance to the authority of state power remains tenacious, its changing forms are no less a product of the historical moment than is nationalism, imperialism and so forth. Such opposition has run the gamut from bourgeois revolutionaries in the coffee houses of the seventeenth century, to the Paris Commune of 1871, to the turn-of-the-century anarcho-syndicalism of the International Workers of the World (IWW). After the Second World War, the New Left turned against centralized Old Left politics as the Civil Rights and other minority-based liberation movements re-centered anti-nationalist sentiment around individual freedoms and / or cultural identity. Curiously, even the punks overt negation of the 1960s was carried out in the name of anti-state, cultural anarchism, just as today, informal collective such as Reclaim the Streets, Carnival Against Capital and Indymedia reflect the green-anarchist and indigenious-peoples movements that are militantly opposed to globalization and centralized authority. Under the circumstances stealing the state has been transformed into stealing corporate power in order that it may be redirected towards alternative, people-centered purposes. As the activist art group Yomango insists, 'Dare to desire: YOMANGO is your style: risky, innovative. It is the articulate proliferation of creative gestures.'³⁴

Nevertheless it is crucial to note that powerful, anti-state sentiments are also shared by right-wing libertarians and assorted religious

fundamentalists, as well as by a group of highly influential, ‘centrist’ policy makers who, not so long ago, prophesized a future in which the global marketplace would gradually subjugate national territories. NeoLiberalism – from Reagan and Thatcher on up to Bill Clinton – is typically described as a response to the capital crisis of the late 1970s, and in his influential study *The Condition of Postmodernity* David Harvey argues that the floating exchange rates and financial networks of the 1980s permitted corporations to outmaneuver national interests in what he labels a regime of ‘flexible’ capital accumulation.³⁵ Even if by some accounts Neoliberalism was only a method for stabilizing U.S. national markets over and against all others,³⁶ a perspective that recent moves towards protectionism may bear out, one thing most analysts agree upon is that the last thirty years and up until 9/11 has seen a reduction of state influence in economic matters, the globalization of production, an emerging class of mobile, creative laborers, and a rise, especially evident in the immediate post-Cold War era, of a technological entrepreneurialism that prompted one noted commentator to triumphantly proclaim the arrival of “a certain uniformity of economic and political institutions across different regions and cultures,” and ultimately to theorize the end of history itself.³⁷

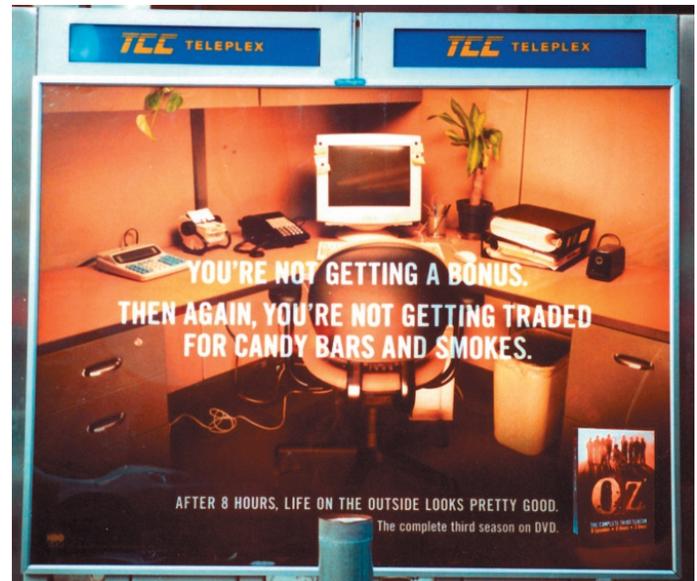
This flexible accumulation finds its behavioral corollary in what theorist Brian Holmes describes as the “flexible personality”:

...an internalized and culturalized pattern of “soft” coercion, which nonetheless can be directly correlated to the hard data of labor conditions, bureaucratic and police practices, border regimes and military interventions.³⁸

According to Holmes, the new conditions erase the division between consumption and production and worker alienation seems to vanish as “individuals aspire to mix their labor with their leisure.” Even businesses began to see themselves as a “sphere of creative activity, of self-realization” in which the new, ‘net’ worker becomes “the manager of his or her own self-gratifying activity.”³⁹ That is, at least as long as happy-work leads to a product worthy of profitable exchange.

4. The End of the Flexible Personality ?

It is at this moment, in the glow of these softly regulated modes of precarious, creative labor, that seemingly radical styles of business management emerge directly modeling themselves after experimen-



“Your not getting a bonus. Then again your not getting traded for candy bars and smokes.” An advertisement for television prison drama *OZ* displayed on pay phones in Manhattan. America was adjusting its social expectations radically downward after 9/11 and the dot.com crash.



Unorthodox working stations at SEI Investments, Oaks Pennsylvania

tal, avant-garde and even critical forms of culture. Frank's counter-cultural capitalist orthodoxy is one such example, with its rapid-fire absorption of all that is new and different, that is then re-packaged and sold back to us as an ersatz 'otherness.' Consider now the highly successful CEO Al West who runs a risk-management firm near Philadelphia in which employees serve on fluid, multi-disciplinary teams and re-arrange portable office furniture to suit the evolving needs of projects. The few walls that exist inside the company's postmodern headquarters display contemporary artwork, some of it strange and disturbing to

workers. West explains that his objective is to help people 'get out of the box.' 'We want them to think creatively, so why not highlight these pieces? That's what art is all about – doing it in a different way...' Meanwhile, West's management theory sounds as if it came from the pages of Artforum or even the anarchist zine Clamor rather than from the Wall Street Journal.

It used to be that information would flow up to one spot, and then the decision we make would flow back down. That's no longer a good model. In today's environment, you turn the organization upside down.⁴⁰

Drawing an even tighter circle around contemporary art practices and business theory, Matthew Jesse Jackson writes in a recent piece for the New Left Review suggestively entitled *Managing the avant-garde that,*

Power in the art world is shifting away from the tenured stasis of academia to cultural actors plugged directly into the entrepreneurial sector. And with this transformation, subversive 'anti-institutional' institutional changeability has become the defining cultural mandate of the neoliberal world order.⁴¹

Is it too far a stretch to suggest there exists a structural and historical correlation between such vanguard management ideology, with its flexible, at times experimental approach to worker productivity and happiness, and the forms (not content), of tactical media?⁴²

Significantly, it is this anarcho-capitalist dream of unimpeded financial networks and frictionless exchange that has recently hit a roadblock, or should I say 'road-bush'? Free-market subterfuge has been replaced by pious demolition and occupation. For compared to past conservative regimes in the U.S.

Critical Art Ensemble performance "Cult of the New Eve," parodies the business of bio-technology corporations treating it as a "cult," Pittsburgh PA, 2000.

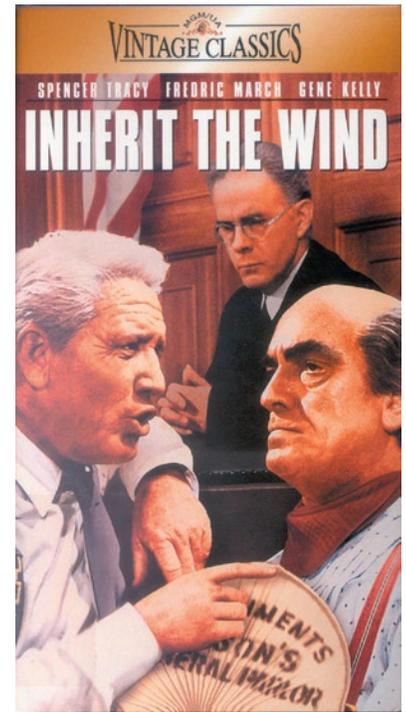


that have favored isolationism over militarism, the Bush Doctrine is something of a chimera.⁴³ With the appetite of unrepressed, free-market capitalism, its heart is filled with the moral righteousness of missionary Christianity. (Nor can one help but notice that its body is designed for old-fashioned imperialist conquest.) Therefore, when comparisons are made between past and present instances of state-sponsored oppression, contradictions of this magnitude must be factored in. Indeed, the modern state's apparently bifurcated response to political dissent – carefully targeted, yet outright repression on the one hand and repressive tolerance manifest by commodity culture on the other – is not, strictly speaking, an ideological reaction. For despite a superficial equivalence between conservative and liberal regimes respectively, the twin tactics of state social control more accurately correspond to the changing needs and pressures arising from the need to manage unstable markets for maximum capital accumulation. In other words, if flexibility, openness and tolerance, were the watchwords of art, science and industry, especially immediately following the end of the Cold War, then the new maxims of the homeland security state apparatus are restraint, insularity, and suspicion.⁴⁴

5. Conclusion

In this sense the seemingly post-rational, political agenda of the Bush Doctrine might be a refreezing of selected portions of the de-territorialized network that Hardt and Negri posited in their influential study, *Empire*. Likewise, the investigation and intimidation of journalists, scientists, academics and artists may be more than just a public scapegoating of relatively powerless individuals and groups. It might instead be aimed at loudly signaling an end to the interdisciplinary, transnational entrepreneurialism that dominated the pre-911 technological, economic, and cultural environment.⁴⁵

That is not to say that capitalism will never again chant the mantra of 90s management guru Tom Peters, “Never hire anyone without an aberration in their background.”⁴⁶ Nor will it, at the mere invocation of anti-authoritarian ideas, react as it has in the CAE case, at least not based on the facts thus far. Instead, what sets this moment apart is the re-sanctification of the state as transcendent fetish and a concomitant re-disciplining of ambiguous, unmanageable forms. This includes CAE. When CAE transformed various insurgent theories – be these avant-gardist or radical-corporate – into accessible, DIY procedures, and then directed a diffuse, yet unquestionably resistant force towards select, private and governmental targets, it publicly demonstrated its ability to operate within the same nebulous terrain of power that the state now deems its privileged concession to own, lend out, or direct. Is it any wonder authorities compare CAE to terrorists? Kurtz and his colleagues sinned yet a second time and really brought down ‘the man’ when they published manuals explicating how to make use of this counter-knowledge, including its tactics and circuitry, and did so not



Stanly Kramer's 1960 film version of the 1925 Scopes trial pitting Evangelical Christian theology against Darwinian evolutionary science.

with the ambiguous idioms of art-speak, but rather with the determined hyper-clarity of the techno-geek.

This is where something far more grotesque than a simple return to the past begins to be teased out of an otherwise incomprehensible instance of state censorship. It is a warning aimed as much at the avant-garde, entrepreneurial spirit of the dot-comers as it is against a group of interdisciplinary artists who refuse to stay in their assigned role as isolated cultural workers. Yet if the buzzword of bunker America is “get back in your box!” there must be no equivocation regarding support for those being targeted by the new, homeland-security state apparatus. To speak up against its creeping authoritarianism, to do so loudly wherever we are, whenever we have the opportunity, in large or small ways, means never acting alone, but instead acting collectively. To not act, as Bertolt Brecht precisely summarizes, is to accept the ignominious verdict of history:

They won't say: the times were dark. Rather: why were
their poets silent?⁴⁷

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NOTES

1 Steven Metz, *Relearning Counterinsurgency: History lessons for Iraq, Afghanistan, and the global war on terror*, The American Enterprise Institute, 10 January 2005; transcript at www.aei.org/events/filter_.eventID.982/transcript.asp

2 George W. Bush in a joint news conference with French President Jacques Chirac, 6 November, 2001

3 Some who read this sentence will naturally question my use of the term ‘openness’ and point to the harsh political attacks on artists such as Karen Finley, Robert Mapplethorpe and Andreas Serrano among others in the 1990s over their allegedly subversive images and performances. But the so-called ‘culture wars’ was really Neo-Conservative ideology in vitro, whereas for NeoLiberals it was primarily about transforming the National Endowment for the Arts (NEA) as into an institution actively promoting the privatization (commercialization) of culture.

4 The number of people involved is difficult to estimate but an excellent website that includes a database of some who have disappeared is www.disappearedinamerica.org.

5 Details on many of these cases and over a hundred others are compiled by Matthew Rothschild in his *McCarthyism Watch Updates* published by *Progressive Magazine* and available online at www.progressive.org. See also: *Temporary Services* special website on the Resurgence of the Culture Wars at www.temporaryservices.org/culture_wars.html.

6 Mr. Wizard was a popular U.S. television show in the 1950s and 1960s in which an actor, Donald Herbert, demonstrated laboratory experiments for young people.

7 See: <http://www.critical-art.net/biotech/conbio/index.html> and *The Molecular Invasion* published by Autonomedia Books in 2002.

8 *Electronic Disturbance*, CAE, p. 9

9 David Garcia and Geert Lovink, *The ABC's of Tactical Media*, 1997; available at subsol.c3.hu/subsol_2/contributors2/garcia-lovinktext.html

10 Blake Stimson and I elaborate on this concept of post-war collective forms our essay *Periodizing collectivism*, *Third Text*, Vol 18, No. 6, pp 573 – 585, and again in our forthcoming anthology *Collectivism after Modernism* for the University of Minnesota Press.

11 *Critical Art Ensemble, Digital Resistance: Explorations in Tactical Media*, Autonomedia Books, 2001, p. 9

12 see endnote 1.

13 Related by Claire Pentecost in a presentation at The Cooper Union on October 25th, 2004 .

14 *The Interventionists: Art in the Social Sphere*, Massachusetts Museum of Contemporary Art, 30 May to 20 March, 2005.

15 No evidence of prior interest, that is to say with this one, possibly coincidental, caveat: a lecturer at the University of Illinois at Champaign-Urbana who baselessly stated, “the Critical Art Ensemble paints a picture of cyber-resistance that looks a lot like the descriptions of bin Laden’s alleged network.” Whether Heidi Brush’s paper, *Electronic jihad*, was noticed by Federal agents is anybody’s guess. It was, however, reported on by Kevin Featherly in *Newsbytes*, 16 October, 2001, and it was circulated on the internet, among other places at lists.virus.org/isn-0110/msg00110.html.

16 Quoted in *Anti-biotech artist indicted for possessing ‘harmless’ bacteria* by Brendan Coyne, *The New Standard*, 6 July, 2004; available at newstandardnews.net/content/?action=show_item&itemid=646. Furthermore, the bacteria purchased by Kurtz and Ferrell is often used in high school and middle school classrooms.

17 An illegible fingerprint faxed to the U.S. from Spain was later blamed for Mayfield’s much publicized humiliation and the FBI sheepishly admitted their blunder.

18 The Attorney General apparently dropped this aspect of the investigation after being pressured by the American Civil Liberties Union.

19 If Kurtz and Farrell are guilty of what they’re accused of doing, this would be no more than a contract dispute over \$256 of harmless bacteria. Nevertheless, neither the company American Cultures who supplied the cultures, nor the University of Pittsburgh through which the transaction occurred have brought forth any charges.

20 On 17 March, 2005, almost a year after the initial subpoenas were issued, Steve Barnes, another co-founder of CAE, was issued a new subpoena listing upon it the U.S. Code Title 18 Prohibitions with respect to Biological Weapons. Barnes testified on 18 April and reports that new charges of bioterror may be pending in the case. See: *Artists experience déjà vu in ‘bioterror’ case that won’t go away* by Brendan Coyne for *The New Standard*, 25 April 25, 2005; also at newstandardnews.net/content/?items=1733.

21 See John Dudley Miller, *Butler’s last stand: plague researcher may receive a long prison term in fraud case*, *The Scientist*, Volume 18, Issue 4, 1 March, 2004; www.thescientist.com/yr2004/mar/prof2_040301.html.

22 The letter is available as a downloadable PDF file at www.fas.org/sgp/news/2003/08/nas081503.pdf.

23 Rick Weiss, *Scientists object to NIH’s bioterror focus*, *Washington Post*, 1 March, 2005, p. A13

21 James Glanz, Scientists accuse White House of distorting facts, *New York Times*, 18 February, 2004; www.nytimes.com/2004/02/18/science/18CND-RESE.html?ex=1078153306&ei=1&en=f23c8d5d62ce741.

24 David Schubert's commentary was published in the conservative newspaper *San Diego Union-Tribune*, 9 July 2004, p. B7; available at www.organicconsumers.org/corp/bushscience071604.cfm.

25 According to Debora MacKenzie, grants 'for work on non-biodefence disease germs fell 27%, while grants for studying model bacteria such as *Escherichia coli* fell by a whopping 41%,' Top U.S. biologists oppose biodefence boom, *The New Scientist*, March 2005; www.newscientist.com/channel/health/dn7074.

26 Martha Rosler pointed out to me that the CAE case is unlike that of Maplethorpe, Serrano et al. in so far as it has not directly implicated cultural institutions or arts administrators. Is it also possible that 'subversive' sexual imagery, when decried as amoral by the State, rallies those who defend individual liberty, whereas 'subversive' activism, when decried as terrorism, has an opposite, censorial effect?

27 Australian artist and writer Anna Munster is one of the few to challenge assumptions about neo-McCarthyism. However, she hypothesizes a far more ominous, matrix-like "bio-logic" is at work, and that CAE was snared by its self-regulating nodal networks thanks to the chance occasion of Hope's heart-attack. Although Munster's novel argument suffers from a lack of historical or economic analysis, she nonetheless offers several insights, including her statement that the charges facing Kurtz and Ferrell arise from their having violated "expectations pertaining to the conduct of intellectual and cultural work." Why is bioart not terrorism?: some critical nodes in the networks of informatic life; published in the e-journal *Culture Machine*, no. 7, 2005; culturemachine.tees.ac.uk/frm_f1.htm. For a more grounded and thoroughly researched analysis of the CAE see Claire Pentecost, Reflections on the Case by the U.S. Justice Department against Steven Kurtz and Robert Ferrell, at: <http://www.caedefensefund.org/reflections.html>

28 According to *Encyclopedia of the American Left*, some 10,000 people may have lost their jobs during the McCarthy Era of the late 1940s and early 1950s. (Eds Buhle, Buhle and Georgakas, Garland Publishing NY and London, 1990, p. 459)

29 Remarkably, it was to protect the minority interest that Constitutional freedoms were initially devised.

30 See endnote 28

31 Eva Cockroft, Abstract Expressionism: weapon of the Cold War, *Artforum*, June 1974, pp. 39 – 41; and

Serge Guilbaut, *How New York Stole the Idea of Modern Art*, Chicago University Press, Chicago, 1983

32 Thomas Frank, Why Johnny can't dissent, in *Commodify your Dissent: Salvos from the Baffler*, eds Thomas Frank and Matt Weiland, W.W.Norton & Company, New York and London, 1997, p. 34

33 See: Yomango.net as well as *The Yes Men*, who are perhaps the finest practitioners of pilfering corporate power today at www.theyesmen.org.

34 David Harvey, *The Condition of Postmodernity: An Enquiry into the Origins of Cultural Change*, Cambridge, MA, Blackwell Publishers, first published in 1990

35 "It was the threat of protectionism that the U.S. used to attack those [other] countries unwilling to go global thereby transforming the impulse for nationalism itself as a means of opening up markets," in *Finance and American empire*, Leo Panitch and Sam Gindin, *The Socialist Register*, 2005, pp. 24 & 26

36 Francis Fukuyama, *The illusion of exceptionalism*, *Journal of Democracy*, 1997, 8.3, pp. 146 – 149 academic2.american.edu/~dfagel/Markets&democracyfukuyama.html.

37 Brian Holmes, *The flexible personality for a new cultural critique*, p. 139, in *Hieroglyphs of the Future*, Arkzin publishers, Zagreb, Croatia, 2001

38 *ibid*, p. 122

39 Quoted by John Dunn in *Designing a business revolution*, *Georgia Tech Magazine*, Vol. 76, No. 2, Fall 1999; gtalumni.org/Publications/magazine/fall99/west.html.

40 Matthew Jesse Jackson, *Managing the avant-garde*, *New Left Review*, 32, March – April, 2005. p. 114

41 Taking this one large step further, the networked operatives of the financial world who covertly seek to exploit or bankrupt other corporations and even nations, are veritable encyclopedias of tactical methodology. Indeed, one might even compare them to Al Qaeda agents if not for the premium they place on self-preservation. A good example is John Perkins, who “declares his guilt” in *Confessions of an Economic Hit Man*, Berrett-Koehler Publishers, San Francisco, 2004.

42 President Clinton’s former Undersecretary of Commerce for International Trade, Jeffrey E. Garten, has warned that the new nationalism will lead to “escalating tensions between the U.S. and Europe over export subsidies, steel, agriculture, genetically modified food, and privacy regulations.” In *The politics of fortune: a new agenda for business leaders*, on the website of American Economic Alert at www.americaneconomicalert.org/view_art.asp?Prod_ID=662.

43 Ironically, it is the liberal press that appears to be calling for a return to the cultural politics of the Cold War years. In a *New York Times* Op-Ed piece from 9 August, 2004 the ‘liberal’ paper implored the State Department to:

find new public and private partners to help it shape a coherent cultural policy and construct a broader and more open system to select and finance artists for international exhibitions. Those artists are one of the best ways of letting the world know that cultural freedom and excellence matter in this country. p. 14, column 1.

44 Undoubtedly creativity and innovation will remain central however to the weapons, security, and surveillance industries especially.

45 Tom Peters, quoted by Stefan Stern in *A guru aims high on Prozac*, www.work911.com/cgi-bin/links/jump.cgi?ID=4166

46 *In dark times, 1936-1938*, in *Bertolt Brecht Poems, 1913-1956*, eds J. Willett and R. Manheim with E. Fried, Methen Books, New York, Toronto, London, Sydney, 1976, p. 274.