MOYERS: Chuck Lewis, whom you just saw in that piece is with me now. He is the Executive Director of the nonpartisan Center for Public Integrity, the organization responsible for obtaining that document. Chuck Lewis, thank you for joining us.

LEWIS: Thank you.

MOYERS: The Patriot Act was passed six weeks after 9/11. We know now that it greatly changed the balance between liberty and security in this nation's framework. What do you think — what's the significance of this new document, called the Domestic Security Enhancement Act of 2003?

LEWIS: I think the significance is it just deepens and broadens, further extends the first Patriot Act. That act in 2001, they had six weeks, which was not a lot of time to throw something together. Now there's been 18 months of all kinds of things that have happened and court decisions that have tried to roll back some of the Patriot Act.

And other concerns, law enforcement, people have, and so they've had time to sift and sort what they want. And it's arguably might be a more thorough rendering of all the things law enforcement and intelligence agencies would like to have in a perfect world. It's sort of how I look at it, and I think it's a very tough document when it comes to secrecy and surveillance.

I understand the concerns about fear of terrorism. And it certainly...

MOYERS: We all have those...

LEWIS: We all have those and there are things in the legislation that make sense, and that are reasonable, I think for any American. But there are other things that really take some of the Patriot Act civil liberties issues that folks were concerned about and go even further. And I think it's gonna be very controversial. Some of these sections are gonna be debated for weeks and months.

MOYERS: So many of these powers latent in this draft legislation were powers that were taken away from the intelligence community some years ago because they were abused.

LEWIS: That's right.

MOYERS: Do you see any protection in here against potential abuse?

LEWIS: I don't think there's very much — there's a lot more authority and power for government. There's less oversight and information about what government is doing. That's the headline and that's the theme. And the safeguards seem to be pretty minimal to me.

MOYERS: I just go through here, you know? "Will give the Attorney General the unchecked
power to deport any foreigner?"

LEWIS: Right.

MOYERS: Including lawful permanent resident aliens. It would give the government the power to keep certain arrests secret until an indictment is found never in our history have we permitted secret arrests. It would give the government power to bypass courts and grand juries in order to conduct surveillance without a judge's permission. I mean these do really further upend the balance between liberty on the one hand and security on the other.

LEWIS: Well, they do. They reduce judicial oversight with the secret intelligence courts instead of saying the court may do this now it's the court will do this. They can have ex parte conversations where they go into the judge without anyone else around. In terms of information about detainees, not only can they detain anyone they'd like to detain, there is no public information about it.

Journalists cannot find out the names of — we detained over a thousand people after September 11th because we thought they might all be terrorists. Not one of them was really found with any criminal charges to be a terrorist. And we don't know the names of almost all those people, still. And so it does appear that everything that folks might be concerned about with the Patriot Act, this is times five or times ten is what I look at it. I see it very serious.

MOYERS: You and I have had this kind of discussion often, we go back a long way together. The foundation that I serve on has been a big supporter of yours and you've been a big supporter of our journalism. If we were fighting terrorists instead of being journalists, wouldn't we want this kind of power in our hands?

LEWIS: Well, we would, but we operate in a democracy and there's other considerations. I mean I think, you know, there's no question, if you're in law enforcement, this is gonna make it easier for you to do your job. The problem is, we have a history in our country, just in our lifetime, in the last quarter century.

Where we've seen FBI and CIA abuses of ordinary citizens. Where mail has been opened, where homes have been broken into. Where infiltration has occurred in political groups. Informants have been used, misused. People's lives have been ruined. People have committed suicide because of the pressures brought against them by the government, by these kinds of secret intelligence agencies.

This is not a completely crazy idea to worry about the power of the government. And it was curbed and rolled back in the '70s. And there is something obviously occurring here in the public space around the whole issue of liberty and security right now.

And it is clearly changing and it's moving towards security. And the question for us as a people is what is the right balance. And I think my biggest personal concern is that there ought to be a debate about this. So the Patriot Act jammed through Congress in six weeks.

There was a Congressional — there was a Senate hearing that lasted an hour and a half, there were no questions to the Attorney General by the senators. This is too important for our country. Whatever anyone's point of view, this should be a conversation that the country should have.

And if I'm afraid they're waiting for a war or something and then they're gonna pop this baby out and then try to jam it through.

MOYERS: You mean that if it were not rolled out and discussed publicly until the United States has had war in Iraq, people might not pay as much attention to it as they would now.

LEWIS: They wouldn't pay as much attention and you know, our worries and our fears are gonna be different than they are now. And there will be less of — all these things will melt away. These are nice concerns about liberties but we'll be at war. And we'll have presidents and attorneys general and other government officials telling us things. And I just see a — I see that it wouldn't work quite as easily for them if it comes out in the next few weeks as opposed to then.
MOYERS: Congressman Burton, Dan Burton, of Indiana, a very conservative congressman, who is Chairman on the Committee on Government Reform. He said recently, "An iron veil is descending over the executive branch."

Now your forte is moving information around in Washington trying to find out what's going on. Would you agree with what Congressman Burton has said here?

LEWIS: I absolutely agree with what he's saying. I mean there have been 300 roll-backs of the Freedom of Information Act since September 11th. All over America, at the state and local level, as well as the federal government. The Attorney General sent a message to every federal employee, when in doubt, deny any Freedom of Information request.

We have other things like presidential papers being sealed off. We have reporters trying to cover things in Afghanistan being locked in a warehouse and not able to file their stories. Even before September 11th, we had one reporter's home phone records seized by a grand jury without telling him or his news organization.

There's a lot of things happening with information, access to information, and efforts to stop journalism that I have not seen in 20 plus years of watching Washington and journalism and government interact. And it's not just information. It's not information for information's sake. This is about health, safety, lives...

MOYERS: What do you mean?

LEWIS: Well, you have this whole thing in this current draft legislation that there's a worst case scenario type requirement that every company that is making hazardous or toxic materials has to make that information available to the public. So if something terrible does happen they know that it's possible that it could happen and there's some sort of assessment about it. Well now that is not gonna be required. Chemical companies will not have to tell the world about these problems.

And they will — the citizens in that community will not have access to that information in an easy accessible way. And that's new and that affects their life. If some problem occurs, they're unrelated to the terrorism. Something just goes wrong, they will not know anything about that in their community.

So we're rolling back health and safety and environmental and other considerations and sensitivities that have been in our culture now for decades. Are melting away because of — all in the name of fighting terrorism.

MOYERS: What would be the Attorney General's justification for wanting to restrict access to information about toxic chemicals?

LEWIS: Well, the — I haven't heard one. But I think the rationale is that terrorists could get information about a chemical plant and its security, bad security, inadequate security and somehow then bring about a threat.

But the problem is sunlight is the best disinfectant. If these plants have bad security or they're not being well run and they're actually unsafe it's usually exposing it and talking about it and the public being aware of it that ends up improving the plant or the facility or whatever it is.

I actually find that that's how change occurs usually. And so the ostensible rationale is to keep it away from terrorists. But I think it's also a rationale to protect companies frankly in this instance. Well I happen to know that's been the chemical lobbyist's dream for a long time.

A long time before 9/11. They did not want this information made available.

LEWIS: I see a lot of opportunism here around the fear and paranoia in the wake of September 11th. And taking advantage of the insecurity that we all feel today. And that is, to me, incredibly offensive. And that's why a conversation about it, there's 40 sections in this thing. The public needs to have a sense what exactly are we getting here. There needs to be a chewing over. This should not jam through Congress. This should be out there and being — be talked about.
I mean the realm between public and private, between foreign and domestic, all these things
have morphed into the citizen against all of this out there — this morass of regulations and
rules and intrusions. And at the same time they can come after you, get your credit card data,
your library records, your Internet searching, everything. And they'll decide whether or not
you're a suspect or not.

Whether or not they like you. If you're a disfavored political group, or from the wrong ethnic
background, then you might become on the radar screen of some folks that you don't know
about, you can't find out about, and they can do things. They have — this is incredible power.

**MOYERS:** One of the provisions in here as I understand it is that the government could
actually strip citizenship from someone if — for example, if you were found, according to this,
if you were found making what you thought was a legitimate contribution to some non profit
organization.

**LEWIS:** Right.

**MOYERS:** Foundation. And months from then, that foundation were deemed by the
government or that organization were deemed by the government to have been in some way
supporting terrorists, you could lose your citizenship because of your contribution, even if you
didn't know...

**LEWIS:** That's right.

**MOYERS:** That you were contributing to an organization like that.

**LEWIS:** No, that's absolutely — they have that power. They can also extradite all over world,
even if we don't have treaties. I mean, some of the things in here are — strain credulity for
legal scholars. They're not sure, they've never seen these kinds of provisions trotted out. I
mean, a lot of the question is if it does pass Congress, what would the courts do with it later.

I mean I think there are some legitimate issues there.

**MOYERS:** What do you make of this? This is the document that went from the Department of
Justice with this draft legislation to certain very key people in government. Among them,
Speaker of the House Dennis Hastert and Vice President, Richard Cheney, for their comments
on this obviously confidential document.

Why the Speaker of the House and the Vice President and not the committee chairman of the
Judiciary Committee in the Senate or the appropriate committee in the House?

**LEWIS:** It's a way to say you've consulted Congress to some extent by sending it to the
Speaker and not really consulting Congress.

As far as I can tell, and we have not polled every member or anything like that, but it appears
that virtually no one on Capitol Hill, except for the Speaker, has seen this legislation. I'm
talking about the people at the judiciary committees in the House and Senate don't have this
legislation. And have even been kind of yanked around a little bit for months about whether
there will even be legislation.

**MOYERS:** The House Judiciary Committee actually asked the FBI a few months ago how it
has used the new powers that had been given to it under the Patriot Act. And the Justice
department said, "We can't tell you that information, it's classified."

And this prompted then-Congressman then Bob Barr, from Georgia, another conservative, by
the way, he said the attitude of the Justice Department seems to be that even Congress isn't
entitled to know how they are using the authority that Congress gave them.

**LEWIS:** It's incredible. I mean, if Congress doesn't have oversight over the Justice
Department and these programs, who does? That's how it's supposed to work in our
constitution and in our set up for government.

**MOYERS:** That's one of your real concerns, isn't it? That there's no oversight when secrecy is
this tight.
LEWIS: Absolutely. The Congress is the people's chance to monitor the executive branch. That is the only... it is the closest branch of government to the people. The House members are up for election every two years. If the House of Representatives and the Congress in general cannot keep a watch on the executive branch and cannot be informed about their activities. There's something very serious here.

MOYERS: Chuck, I hear people out there in the audience thinking, you know, I'm scared. We're — this is a new ballgame, to put it trivially. War on terrorists, they came on 9/11, we keep getting reports they're coming again, who knows where it'll happen. Everybody's scared.

You guys are living in Lotus Land, you journalists talking about this sort of thing. Because we really want the government to protect us from another World Trade Center attack on the Pentagon, which is not far from where your office is in Washington.

LEWIS: Right.

MOYERS: What about that?

LEWIS: Look, I wanna be protected by the government as much as anyone. But actually, in some ways that's beside the point. There are also freedoms and rights and liberties that, you know, millions of Americas have fought for over 200 years to make sure that this is a special kind of country. And isn't it possible that to be secure and have liberties? Why give all the power and authority and have no oversight and accountability. What are the safeguards. And that's the question.

MOYERS: When someone inside government, inside the Justice Department, presumably, gives you a confidential document marked, "Not For Distribution," The Domestic Security Enhancement Act of 2003, knowing that this administration has been cracking down on watchdogs and leaks from inside government, do you consider this person a patriot?

LEWIS: I really do. I think it takes incredible guts to take something that bothers someone, and for whatever reason, they feel they must give it out. And they know they're gonna be polygraphed, they're gonna be questioned. There's gonna be a clampdown found, there's gonna be a witch-hunt after this occurs. They could very likely not only lose their job but-- maybe worse.

MOYERS: Be sued by the government?

LEWIS: Be sued by the government and otherwise ruined professionally. That is the most incredible kind of courage. And I have an incredible respect for anyone who does that.

MOYERS: I should make this clear this is not marked "Top Secret" — this is not a classified document. It is stamped "Confidential" but nobody is betraying the Secrets Act.

LEWIS: Yeah, that's right, I mean, I've — I'm glad to say that that's right.

MOYERS: There was a story this week in Congressional Quarterly, which is a very respected non-partisan journal in Washington. It says "Pentagon's proposed changes strike some as difficult, dangerous and destabilizing." And one of the things Donald Rumsfeld wants is wavers of environmental laws so that troops can conduct more "realistic exercises."

And then this magazine, which is non-partisan, says this is part of the administration's broad campaign to run the federal government more like a private business. And with private businesses you have more control over employees, you have more control over information. Do you see that developing as a syndrome of this administration?

LEWIS: I think it's incredible what's happening. I see a wholesale assault on access to information in this country that has not really been seen, I have to just say it, since Richard Nixon.

When you look at the roll-backs of freedom of information, when you look at things like
meeting with energy companies with the Vice President. It's simple things though in
government property with government officials getting paid by taxpayer money and it's not
available to the public.

When you see some of the things that we have talked about earlier with reporters from
detainees to military actions not being able to see things. I see a lot of very aggressive
behavior by government officials towards the act of getting information out and information
itself. I think that we're in a very unusual situation right now. And it really worries me
actually.

**MOYERS:** Chuck Lewis, Center for Public Integrity, thank you very much.

**LEWIS:** Thank you.

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