



# John Perry Barlow 2.0

**The Thomas Jefferson of cyberspace reinvents his body -- and his politics.**

Brian Doherty | Aug. 1, 2004 12:00 am

John Perry Barlow is one of those fascinating figures that American culture regularly produces to our great benefit and occasional consternation. Born in 1947 in Wyoming, he ran his family's cattle ranch for 17 years. Unique among Equality State ranchers, his words filled the ears of millions, because he wrote lyrics to the music of his childhood buddy, Bob Weir of the Grateful Dead. (Among his credits are "Estimated Prophet," "Hell in a Bucket," and "Throwing Stones.") Barlow and Weir met in the early 1960s at a Colorado prep school for, as Dead biographer Dennis McNally gently described it, "boys with behavioral problems."

In the '80s, Barlow became fascinated by the new world opening up through personal computers, and he helped popularize the term and concept of cyberspace. Barlow took his way with words -- and the objections to authoritarianism that lead boys to display "behavioral problems" -- and launched the Electronic Frontier Foundation (EFF) in 1990 with his computer industry pals Mitch Kapor, founder of Lotus, and John Gilmore, an early employee of Sun Microsystems. EFF is a San Francisco-based political advocacy and legal action group dedicated to preserving and extending liberty in cyberspace. Barlow is currently its vice chairman.

In its first major case, EFF gave legal support to Steve Jackson Games, an Austin-based company that had been raided -- and had all its computers stolen -- by the Secret Service, which was seeking hacked telephone security documents. This case helped establish the principle that electronic mail, like personal papers, cannot be seized without warrants. Since then, EFF has played a vital role, through legal action and political agitation, in fighting attempts to mandate government access to all encrypted computer communications, stymieing efforts to restrict the free sale and export of cryptography, and battling laws such as the Communications Decency Act, which would have restricted speech on the Internet.

In 1996 Barlow became the Thomas Jefferson of the wired generation by authoring the doc forwarded 'round the world, "A Declaration of the Independence of Cyberspace." In it, he famously declared to all governments that cyberspace was "naturally independent of the

tyrannies you seek to impose on us....Your legal concepts of property, expression, identity, movement, and context do not apply to us. They are based on matter. There is no matter here."

Barlow no longer runs that Wyoming ranch, and these days he calls himself "a free agent and peripheral visionary." His 1994 *Wired* essay on the future of copyright in a digital world, "The Economy of Ideas," is taught in many law schools; his songs are sung wherever devotees of free-flowing jam bands, from the Dead to his new collaborators String Cheese Incident, gather to celebrate. (These two sides of his persona are not unrelated: Barlow's views on intellectual property were influenced by his experience with the Dead, who famously allowed audience members to tape their concerts and openly encouraged trading, though not selling, of the tapes. By all accounts, this actually expanded the band's audience and profits.)

Barlow recently surprised many of his libertarian friends by announcing that merely living a bohemian libertarian lifestyle was no longer sufficient. For most of his public career, Barlow had emphasized staking out one's liberty in your personal life and in the arena of ideas, not the scrum of partisan politics. Now he feels very differently: He believes that the combination of George W. Bush and the rise of "plutocratic" corporations requires direct political engagement, and that getting rid of Bush overrides any other personal or political concerns.

With characteristic unpredictability, Barlow is set to become the star of a new reality TV show, tentatively titled *Walking Time Bomb*. It will chronicle extensive attempts to improve the health of Barlow, the titular self-abusing 56-year-old man. It is currently scheduled to air on the Discovery Channel in January.

In March, Barlow met with me in the beautiful loft apartment of a friend of his in downtown Austin. A man of many unfixed addresses, he was there to speak at South by Southwest, the well-known annual music, movies, and technology conference. He wore a tight black T-shirt with an image of a skull with familiar mouse ears. We sat on the couches forming an L in a back corner and talked for a couple of hours about being a libertine, and libertarian, in physical, mental, and political flux, while still exhibiting "behavioral problems" in the eyes of the material world's authorities.

**Reason:** You are becoming a reality TV star. What's that all about?

**John Perry Barlow:** I got talked into allowing my body to be the data set for a medical documentary/reality show being put together by the Discovery Channel and Canyon

Ranch [a high-end spa and wellness center]. They wanted to showcase all the things you can do with virtual body imaging of physical systems, all the data you can assemble about what goes on in a body, and talk about the aging process and stopping the effects of long-term abuse on a middle-aged body.

I've been systematically mistreating myself for so long it was going to take something this heroic to turn things around. How often do you get well-funded financial entities to pay for your very expensive rehabilitation? They've been scanning me with everything you can imagine -- electron beam scanners and CAT scanners and MRIs -- and assembling all this information so I can see my own nervous system, my own cardiovascular system, in three dimensions. I can also examine the data being generated on a hormonal and endocrinological level, which creates a better sense of the soup that runs you and where levels should be in that soup and how you can alter them with diet and exercise. I make a really unlikely health nut, but I'm suddenly into it.

They'll be filming me for five months. The interventions are all behavioral, not surgical or biotechnical. It turns out you can do a hell of a lot simply by changing the way you eat and exercise. They are feeding me drugs, and drug-like foods, and food-like drugs, and hypervitamins. So now I'm not smoking, not drinking, going to the gym, not eating refined carbohydrates. I'm much happier about the sight of leafy green vegetables than I used to be.

There are an awful lot of people like me because of the baby boom. Most of the people in my age cohort pretended to be 17 all along, to our detriment. We are not 17, and now it becomes demonstrably obvious we are not. The fact that we pretended we were has added wear and tear on our system.

**Reason:** Does it make you have second thoughts about your lifestyle libertarianism?

**Barlow:** No. I'm still strongly opposed to antismoking laws, strongly opposed to any law that regulates personal behavior.

**Reason:** Not from the legal standpoint, just personally: Should you not have treated yourself the way you have?

**Barlow:** I don't really feel that way. I'm glad that it appears to be the case that I can stop doing it now and reap the fruits of not having done it all along. It's another opportunity to have my cake and eat it too.

I was starting to see the bloody handprints on the wall. This just seemed like providential intervention. There are a lot of things I want to insert into the world in my lifetime, and I don't want to have a voice that's diminished by physical decrepitude.

I have a novelty-seeking gene as far as I can tell. Engaging in risky behavior is not something I'd ever be able to avoid. But it all depends on how you define your risk.

What really sticks out in my mind is an hour-and-a-half conversation I had with [*Hitchhiker's Guide to the Galaxy* author] Douglas Adams a couple of years ago. He was extolling the virtues of going to the gym every day, and how I ought do it, and he was so happy he was going to live to be 106. And he went to the gym the very next day and dropped dead of a massive heart attack. So I could go to the gym and it might kill me, as it did kill him. But I don't think Douglas was under sufficient medical supervision.

**Reason:** How would you assess the accomplishments of EFF so far?

**Barlow:** Every existing power relation is up for renewal with cyberspace, and it was only natural there would be an awful lot of fracas where cyberspace met the physical world. EFF has been the primary mediator on that border. We have been very successful at protecting against excessive government encroachment into the virtual world.

Copyright and intellectual property are the most important issues now. If you don't have something that assures fair use, then you don't have a free society. If all ideas have to be bought, then you have an intellectually regressive system that will assure you have a highly knowledgeable elite and an ignorant mass.

**Reason:** Is it your goal to annihilate intellectual property?

**Barlow:** Let me differentiate my own view from ex cathedra EFF. I personally think intellectual property is an oxymoron. Physical objects have a completely different natural economy than intellectual goods. It's a tricky thing to try to own something that remains in your possession even after you give it to many others.

**Reason:** You've said it's better to think of intellectual work as a service you are paid for rather than an object of which you retain ownership.

**Barlow:** The way most people get paid for work done with their minds is on that basis. Lawyers, doctors, and architects don't work for royalties, and they're doing fine. Royalties are not how most writers or musicians make their living. Musicians by and large make a

living with a relationship with an audience that is economically harnessed through performance and ticket sales.

Trying to own intellectual products and creating an economy of scarcity around them as we do with physical objects is very harmful to the development of culture and the ability to speak freely, and a very important principle not talked about much, which is the right to know. I think we have a right to know. It shouldn't be something we have to purchase.

That's me. EFF takes a somewhat more moderate view, but they are very concerned about fair use, and they don't believe present copyright laws, especially as defined by the 1998 Digital Millennium Copyright Act, are in the service of fair use at all. It was a very dumb piece of legislation, and if we could get rid of it, the world would be a better place.

**Reason:** What are some things EFF is doing in the intellectual property field?

**Barlow:** We are involved in some ongoing litigation regarding file sharing, and we're starting to make some progress. We won *Grokster v. MGM* [which declared that the makers of software that facilitates potential copyright infringement are not liable for such infringement done by users]. But all that law is still in flux, and who knows how it will eventually shake out? The important principle is that there are noninfringing uses for peer-to-peer [P2P] systems. We are trying to do show the continual validity of the decision in the Betamax case [*Sony Corporation of America v. Universal City Studios*, a 1984 Supreme Court case that declared that neither home tapers of TV shows nor sellers of VCRs were infringing copyright]. When the VCR came into use, [Jack] Valenti [head of the Motion Picture Association of America] tried to stop it. But the Supreme Court ruled that there are significant noninfringing uses of a VCR that were so important to the First Amendment that Mr. Valenti's concerns had to take the backseat.

It was a damn good thing for Valenti that they did, because the movie industry is now heavily dependent on the very thing he was trying to stop. They seem to have forgotten that, and are back saying the only purpose of P2P networks is for illegal trading of owned goods. We claim part of the reason for P2P is for legal trading of what ought to be in public domain. And what *is* in public domain in many cases.

More important is the ability to quote from movies. The motion picture industry doesn't think you should be able to show anything from a movie unless you get their explicit permission. I think that creates a deadened culture so bound up in legal proceedings that it's never able to do anything creative that involves moving images.

**Reason:** Do you want to change the fact that downloading a movie is illegal?

**Barlow:** EFF is well aware of the fact that it is not legal to download movies. Personally, I think if you're downloading movies noncommercially, sharing them with friends as you do when you let them borrow a DVD that you rented last night, that's perfectly fine.

I can't speak for EFF on that, but *I* would like to change it. The motion picture industry should realize in an information economy that when you've got a lot of free access to commercial goods it does not necessarily reduce their value, because there is a relationship between value and familiarity in informational goods. Despite the fact that there's a huge amount of motion picture piracy at the moment, theaters are doing better than ever.

I get pilloried for saying this -- "Oh, Barlow thinks the Grateful Dead model ought to extend to the world" -- but I don't see any reason why it can't. It worked for us and it has worked for everyone else I've ever seen try it. I think that what we stumbled into was a real deep -- we didn't know it at the time -- a deep quality of how an information economy works. We really did just stumble into it. We just decided it was morally shaky to toss people out of concerts just because they had tape recorders. It's bad for your karma to be mean to a Deadhead. And we thought we'd take a hit on it.

**Reason:** You recently sent out an e-mail to many of your friends in which you announced that you were coming to think that mere "lifestyle libertarianism" was no longer enough -- that the current political crisis now was so severe that actual gritty electoral political activism was a necessity and a duty. Why?

**Barlow:** I think you can only go so far ignoring the opposing forces in the cultural war now arrayed against bohemian libertarians. It's like in the '60s, when there were two distinct camps in the boho scene, one of which was Marxist and ideological and political and engaged and humorless to beat the band. And the other one was acid-laced and freewheeling and took the view that if you could change consciousness, politics would take care of itself. I was of that view to a large extent.

I've gone back and forth with politics. I've been a Republican county chairman. I was one of Dick Cheney's campaign managers when he first ran for Congress. But generally speaking, I felt to engage in the political process was to sully oneself to such a degree that whatever came out wasn't worth the trouble put in. I thought it was better to focus on changing yourself and people around you, to not question authority so much as bypass it whenever possible.

But by virtue of our abdication, a very authoritarian, assertive form of government has taken over. And oddly enough, it is doing so in the guise of libertarianism to a certain extent. Most of the people in the think tanks behind the Bush administration's current policies are libertarians, or certainly free marketeers. We've got two distinct strains of libertarianism, and the hippie-mystic strain is not engaging in politics, and the Ayn Rand strain is basically dismantling government in a way that is giving complete open field running to multinational corporatism.

**Reason:** What are some of the specific actions or policies of the Bush administration that alarm you more than Clinton did, or Reagan or the first Bush?

**Barlow:** An unwillingness to engage in any kind of mitigation of the free market. The one thing that I know government is good for is countervailing against monopoly. It's not great at that either, but it's the only force I know that is fairly reliable. But if you've got a truly free market you only have a free market for a while before it becomes completely regulated by those aspects of it that have employed power laws to gain a complete monopoly.

**Reason:** You've said that Microsoft is in a position where it is achieving control over our minds. Could you elaborate?

**Barlow:** Any time you engage with information, the reality that you extract from that information is shaped by the tools that deliver it. Microsoft's information presentation is such a monoculture that it edits out a lot of other realities. So you have a new kind of monopoly that affects the way people think in ways that are invisible to them. It's a very dangerous form of monopoly, especially now that they are talking about the "trusted computing" model, where it will be very difficult for you to save and then pass on documents on systems without identifying yourself.

That system is supposed to be designed to help control digital rights management. By its nature it will be great for *political* rights management, because it's an enormously penetrative surveillance tool, and it makes it hard to do anything anonymously involving a computer. Here is a monopoly in essence, the Wintel monopoly -- Windows/Intel -- which has enormous glob-al power and which no government is willing to stand up to, at least effectively, so far.

The multinationals have reached the point where they are essentially replacing the nation-state. I look at a multinational as an organism. It is not a human being and doesn't have any characteristics of a human being. It is as much unlike a human being as a coral reef is unlike a coral polyp or an anthill unlike an ant.

It is an extremely advanced piece of evolutionary design that is capable of having its way in the world and competing with human beings for the world's resources. From a multinational's standpoint, the best thing that can happen is the best thing that can happen *right now*. They have to deliver maximum shareholder value today, next quarter, which means that they don't worry about whether there are going to be resources for them to exploit in 10 years.

We need them. We have a deeply symbiotic relationship with large corporations. I wouldn't want to eliminate them, because they are the engines of our economic well being at the moment. But we need something -- and I think it's governmental -- to reregulate the market and make it free, because the multinationals have taken it away.

**Reason:** What is it you are recommending bohemian libertarians do right now?

**Barlow:** We have to re-engage in the political process we have. Democracy actually works. You could make the argument that it's working too well in America -- people are really getting exactly the government that they want. That is to say, the people who bother to engage themselves in the really tedious work of being a political activist -- having meetings in church basements and putting signs on people's lawns.

I have grave misgivings about John Kerry, but I certainly don't have misgivings about Kerry that equal the terror I have about another four years of Bush. What he's done to aspects of the Constitution that are there to assure individual rights is breathtakingly bad.

So I'm becoming an active Democrat. I wasn't one until just a few months ago, because I felt there was more room for libertarian thought inside the Republican Party. I never found the Libertarian Party was a credible political institution. It holds a pure line, and I'm glad there's somebody out there defining that point of view, but in terms of actually having power, making a difference....There are libertarian wings in both the Democratic and Republican parties, and in the past I found it most effective to be inside the Republican Party acting as a libertarian. But I've switched.

One of the things going on in my mind when I wrote that note [announcing the decision to embrace political activism over lifestyle libertarianism] was that I'd just been busted for having a really trivial amount of marijuana in a checked bag under a PATRIOT Act search. I was arrested, hauled off in irons, an ugly experience. At San Francisco airport, for, like, three joints' worth of dope.

Before the plane took off, Delta employees came on and said, Mr. Barlow, you have to step off the plane, and bring your personal effects. Then San Francisco cops arrested me. I spent the day in Redwood City in jail. It was a chilling experience. It's happening, and happening a lot. The Transportation Security Administration is now routinely searching checked bags. They are *not* just looking for explosives. I've taken the government on, subpoenaing their training procedures and search requirements to see whether or not any attention is paid to the Fourth Amendment in these searches.

The Constitution doesn't say anything about national security. The Fourth Amendment is the Fourth Amendment, and they're gonna have to show me that it isn't. Right now they are refusing to answer subpoenas. I'm trying to suppress evidence based on it being an improper search.

Most people in this situation just say whatever, and plead out, but I'm willing to put myself on the line for it. The worst that can happen is they'll be especially nasty if they convict me. It's a misdemeanor anyway. But to just plead out would be abdicating my citizen's responsibility to defend the Constitution. You have to fight for your freedom individually and not say, "Oh well, it's not worth the trouble."

I'm already being a lot pricklier than they expected. They asked for a continuation at the last hearing because they said that the Department of Homeland Security had been unable to come up with a set of guidelines regarding the release of the subpoenaed materials for national security reasons. So our national security depends on whether or not they can get me for carrying marijuana on that airplane.

The ideal thing would be to have charges dismissed with prejudice, and then I sue the shit out of them. I'm merely defending myself right now.

**Reason:** Would this situation be any different if John Kerry were president?

**Barlow:** It would certainly be better. I don't think anyone is as good as he ought to be.

I had a conversation with Kerry. It was pretty disheartening. I asked how he felt about civil liberties. He said, "I'm for 'em!" That's great, but how do you feel about Section 215 of the Patriot Act? He said, "What's that?" I said, it basically says any privately generated database is available for public scrutiny with an administrative subpoena. He says, "It says that?" I say, "You voted for it!"

He says, "Well, it was a long bill...." Then he went off on this riff about how we had to take some serious measures to stop this terrorist threat, etc. I said, "I fail to see how terrorists present anything like as big a threat to liberty in America as you guys do by passing this kind of legislation. The founding principles of this republic are not being defended where they need to be defended."

He seemed somewhat receptive, but he's a very political guy. Even among his kind. I think he's been in the U.S. Senate long enough to have his backbone dissolved. This was at a small dinner of mostly wealthy people giving him money. But I think Kerry will be somewhat better than Bush, if for no other reason than he is not on the same side in the culture war. Kerry's a Deadhead. He inhaled. He said he didn't like it that much, but he certainly is not out there ready to impose steeper mandatory sentences on possession of drugs.

**Reason:** But is he ready to eliminate the ones we have?

**Barlow:** I think so. He's not about to discuss it publicly. Right now he's trying to define himself as only slightly to the left of George Bush.

Kerry isn't perfect, but the alternative is just completely....I hate to keep carping on this, but within the libertarian movement we're gonna have to actually sit down and talk about where we stand on the two variants, because one of them is actually part of the problem at this point. I used to think of myself as both kinds of libertarian, but I have pretty well parted company with [D.C.-based leader of libertarian-leaning conservatives] Grover Norquist at this point. I don't see anything particularly free about a plutocracy.

**Reason:** I've been rereading some of your early '90s writings about the digital future, and you sounded a lot more optimistic then, with a much more "nothing can stop us now" attitude.

**Barlow:** We all get older and smarter.

**Reason:** Still, it seems to me you were mostly right. The Internet promise came true. We do have access to more news, viewpoints, opinions, cultural products than could have been imagined 20 years ago. Doesn't that make worrying about corporate media consolidation a rather antediluvian fear?

**Barlow:** You now have two distinct ways of gathering information beyond what you yourself can experience. One of them is less a medium than an environment -- the Internet

-- with a huge multiplicity of points of view, lots of different ways to find out what's going on in the world. Lots of people are tuned to that, and a million points of view have bloomed. It creates a cacophony of viewpoints that doesn't have any political coherence at all, a beautiful melee, but it doesn't have the capacity to create large blocs of belief.

The other medium, TV, has a much smaller share of viewers than at any time in the past, but those viewers get all their information there. They get turned into a very uniform belief block. TV in America created the most coherent reality distortion field that I've ever seen. Therein is the problem: People who vote watch TV, and they are hallucinating like a sonofabitch. Basically, what we have in this country is government by hallucinating mob.

It's a perfect set of circumstances to give us the time Yeats foretold, with the best having lost all conviction and the worst full of passionate intensity. In my heart of hearts I'm with you. I'm an optimist. In order to be libertarian, you have to be an optimist. You have to have a benign view of human nature, to believe that human beings left to their own devices are basically good. But I'm not so sure about human institutions, and I think the real point of argument here is whether or not large corporations are human institutions or some other entity we need to be thinking about curtailing. Most libertarians are worried about government but not worried about business. I think we need to be worrying about business in exactly the same way we are worrying about government.