

# The INDEPENDENT

NEWSLETTER OF  
THE INDEPENDENT INSTITUTE

VOLUME XII, NUMBER 2

## Forums on Terrorism, Feminism and Lincoln

The Independent Policy Forum continued to pioneer public-policy debate with thought-provoking programs on the war on terrorism, women's rights, and the legacy of Abraham Lincoln and government power:

• **UNDERSTANDING AMERICA'S TERRORIST CRISIS: What Should Be Done?** (April 18): This very timely, provocative, and



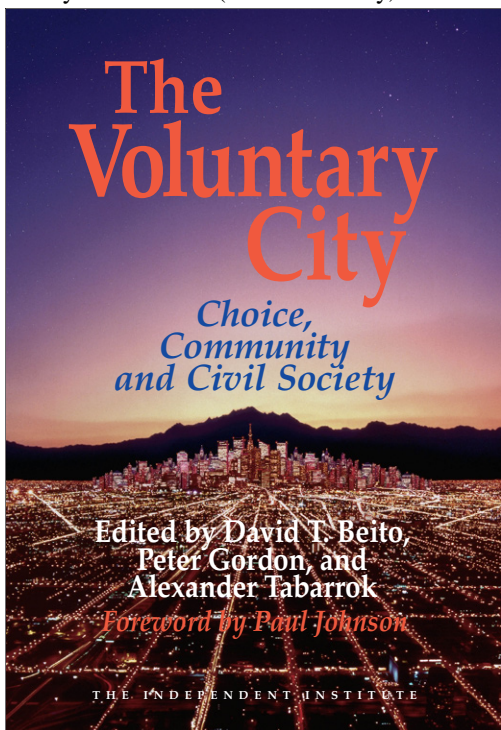
(clockwise from top left) *Lewis Lapham, Gore Vidal, Thomas Gale Moore, Robert Higgs, and Barton Bernstein at the Independent Policy Forum, "Understanding America's Terrorist Crisis: What Should Be Done?"*

far-reaching forum featured renowned author **Gore Vidal**, panelists **Barton Bernstein** (Stanford Univ.), **Robert Higgs** (The Independent Institute) and **Thomas Moore** (Hoover

*(continued on page 3)*

## The New Road to Urban Renaissance

Urban reformers often downplay the ability of civil society to improve communities, and instead rely on central government planning, which is unresponsive to changing needs. Now, decentralized, non-governmental institutions—including private, competitive markets—get a full hearing in the new Independent Institute book, *The Voluntary City: Choice, Community and Civil Society* (U. of Michigan Press), edited by **David Beito** (Prof. of History, U. of Ala-



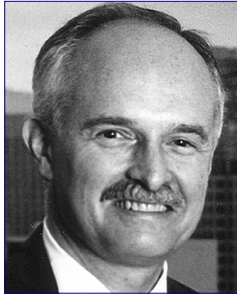
bama), **Peter Gordon** (Prof. of Planning, U. of Southern California) and **Alexander Tabarrok** (Research Director, The Independent Institute), with a foreword by historian **Paul Johnson**.

What is a "voluntary city"? It is a community built and maintained by private initiative and community cooperation—not by coercive political institutions. The voluntary city is both a blueprint for the community of tomorrow and a historical reality. At various times, *all of the pil-*

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*President's Letter:*

## A New Pinnacle for Politics-as-Usual

A year after the terrorist attacks of September 11, have politics and government bureaucracy been shown capable of addressing major problems? Apparently not, if we are to judge by the behavior of post-9/11 Washington.

Conflicts in the Middle East and elsewhere have reached frightening proportions as the U.S. pursues a unilateral, global war without end against unclear and illusive enemies. Meanwhile, the "War on Terrorism" has become convenient cover for interest groups of all sorts to extract record protectionism, pork, and corporate welfare, and trample on due process and the Bill of Rights. Congress has passed a Farm Bill of squealing proportions, the truly Orwellian USA PATRIOT Act sailed through the Senate with only one dissenting vote, federal deficits are again reaching the sky, and Republicans and Democrats are competing in a scramble to cater to every interest group imaginable in defense, health, education, transportation, welfare, commerce, et al. And, the White House has apparently yet to see a single bill or government program it will not sign with royal fanfare.

Why would we expect otherwise? As Independent Institute Senior Fellow **Robert Higgs** (editor, *The Independent Review*) has shown in his seminal book, *Crisis and Leviathan*, "crises," and "war crises" in particular, have always been the major engine for establishing and expanding government power to the great detriment of uninformed citizens who are manipulated as funders and cannon fodder for the interests of the politically powerful. The terrorist war now promises to reach a new pinnacle for this very disturbing process.

While most media outlets report on the "patriotic" spectacle and think tanks "debate" which government officials and agencies are best equipped to implement it all, Independent Institute events (see page 1) and publications (see page 1 and 5) are carefully and systematically examining and refuting the nonsense of this appalling political circus.

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## *Independent Policy Forums: Terrorism • Feminism • Lincoln and Liberty*

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Institution), and moderator **Lewis Lapham** (editor, *Harper's*) who raised serious concerns about the U.S. war on terrorism seldom expressed elsewhere, and which were enthusiastically received by a standing-room-only crowd of 1,350 at San Francisco's historic Herbst Theatre.

World-renowned novelist, playwright, and essayist Gore Vidal (author, *Perpetual War for Perpetual Peace*) lamented that the open-ended nature of the war on terrorism is making liberty and security the foremost casualties: "We have this perpetual war for perpetual peace, and it does a lot of damage in the world. It certainly damages other people's view of us. But, it has given an opportunity to those who do not like our Bill of Rights, and those freedoms that we used to enjoy and are being curtailed."

Historian Barton Bernstein challenged the "uniqueness" of the 9/11 terrorist attacks, citing 20<sup>th</sup> century wartime atrocities that deliberately targeted civilians, including the U.S. bombings of Dresden, Hamburg, Hiroshima, Nagasaki, and Tokyo. Economist and historian Robert Higgs argued that the politicization and



**Wendy McElroy** (Research Fellow, *The Independent Institute*) addresses the Independent Policy Forum.

wastefulness of the U.S. defense budget—corporate welfare writ large—helped contribute to America's vulnerability to terrorist attack. "The most curious upshot of this terrible failure is that the President and Congress have not seen fit to punish those responsible for the failure," said Higgs. "No heads have rolled. Hell, nobody's even had his wrist slapped."

Thomas Moore argued that U.S. troops stationed abroad "furnish both a motivation for terrorism and a target." Attacking Iraq, he added,

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## *The Voluntary City: Choice, Community and Civil Society*

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lars that make communities livable—a well-functioning infrastructure, social services, and institutional framework—have been supplied by private initiative, as the thirteen contributors to *The Voluntary City* describe in fascinating detail.

- **Urban Infrastructure:** **Stephen Davies** (Manchester Metropolitan U.) begins by showing that public health and safety need not be provided by city planning, zoning and building codes. Pointing to England during the Industrial Revolution, Davies shows that private initiative, contracts, and property rights—cornerstones of civil society—made urbanization more orderly. **David Beito** shows that in the privatized neighborhoods of 19<sup>th</sup> century St. Louis, Missouri, residents provided superior infrastructure and planning, including private streets, sewers, electricity, and governance structures. And, **Daniel Klein** (Santa Clara Univ.) examines the bustling private turnpike movement of early America, which arose when rapid population shifts outpaced government roads. Finally, **Robert Arne** (School of Choice) explains the intricacies of Chicago's Central Manufacturing District, with its well-functioning docks, transportation, electricity, and other services—all provided privately.

- **Law and Safety:** Like community planning,

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*"The Voluntary City explores the fascinating history of bottom-up approaches to the challenges of urban living. It provides refreshing counterpoint to the dominant urbanologist tradition."*

—**ROBERT C. ELLICKSON**

Professor of Law, Yale University

*"The exciting and pioneering book, The Voluntary City, sketches out a provocative vision for communities based on civil cooperation and entrepreneurship."*

—**JERRY BROWN**, Mayor, Oakland, Calif.

*"Beito, Gordon, and Tabarrok have put together an outstanding book with The Voluntary City."* —**WILLIAM FISCHER**

Prof. of Economics, Dartmouth College

*"The Voluntary City is an important book and highly informative for anyone interested in urban life and human welfare."*

—**BERNARD H. SIEGAN**

Prof. of Law, University of San Diego

*"The Voluntary City is a superb book."*

—**BRET SCHUNDLER**

Former Mayor, Jersey City, New Jersey

*"The Voluntary City is an important book."*

—**NATHAN ROSENBERG**

Professor of Public Policy, Stanford Univ.

## *The Independent Institute in the News*

- Senior fellow **Robert Higgs** debunked claims that, despite strong repressive measures by the U.S. against its citizens during national emergencies, Americans' economic and civil liberties have improved over the long-term in *Ideas on Liberty* (March). Reporter Ed Warner of the "Voice of America" radio network quotes Higgs extensively in a story on complications relating to the widening war on terrorism (5/28).
- In an op-ed by public affairs intern **Marisa McNee** in the *Buffalo (NY) News* (5/5) and in a piece for the *Atlanta Journal-Constitution* (5/16) by **David Kaserman** (research fellow and contributing author to the Institute book, *ENTREPRENEURIAL ECONOMICS*), the American Medical Association was urged to cure the shortage of cadaveric organs for transplants by dropping the organization's opposition to incentives for organ donation.
- **Stephen Halbrook**, research fellow and author of the Institute book, *THAT EVERY MAN BE ARMED*, debated the Second Amendment with the Violence Policy Center's Mathew Nosanchuk in the *San Diego Union-Tribune* (5/19).
- **Gore Vidal's** participation in an Independent Institute event on the war on terrorism (see related article, p. 1) generated significant media coverage. Vidal appeared on KRON-TV (San Francisco), and moderator **Lewis Lapham** (editor, *Harper's*) appeared on KQED-FM's "Forum" (4/18). Panelist and senior fellow **Robert Higgs's** related op-ed on the relationship between the events in Waco, TX, and Oklahoma City on April 19<sup>th</sup> and those of Sept. 11<sup>th</sup> ran in the *San Francisco Examiner* (4/18). A similar piece by Vidal ran in the *San Francisco Chronicle* (4/21). Prominent pre- and post-event coverage also appeared in the *Oakland Tribune* (4/22), *San Francisco Chronicle* (4/18, 4/19), and the Spanish language newspaper, *La Opinion* (4/22). The *Sacramento News & Review* (4/25) noted that the event "offered an understanding of the situation that was sharply divergent from this country's dominant storyline since Sept. 11."
- More than 1,200 K-12 students sought private school tuition assistance this year from the **Independent Scholarship Fund (ISF)**, a program administered by The Independent Institute. Stories on ISF appeared in the *Martinez News-Gazette* (March), *Oakland Tribune* (4/5), *Oakland (CA) Post*, (4/17), and *Bay Area Parent* (April).
- Academic affairs director **Carl Close** and research fellow **Gabriel Roth** co-authored an op-ed chiding the Amtrak Reform Council for not recommending an end to the ailing and subsidized National Railroad Passenger Corporation (a.k.a. Amtrak). The piece ran in several newspapers, including the *Providence (RI) Journal* (3/2), *St. Paul (MN) Pioneer-Press* (3/5), and *Montgomery (AL) Advertiser* (3/19).
- *Consumers' Research* magazine ran as a cover story the first part of an article authored by research fellow **Daniel Klein** and research director **Alexander Tabarrok** on the harm to health care consumers caused by the FDA's approval processes (April). Adapted from The Institute website project by Klein and Tabarrok, **FDAREview.org**, the second part of the article, which appeared in the May issue, discussed proposals for FDA reform. Tabarrok was also invited onto Judicial Watch's weekly radio program to discuss the FDA (February). *The Gray Sheet*, serving the medical community, also discussed **FDAREview.org** (March).
- Research Fellow **Wendy McElroy's** FoxNews.com columns have been making an impression in the print media, appearing in the *Pittsburgh (PA) Tribune-Review* (3/6), *East Valley (AZ) Tribune* (3/18), *Union Leader* (Manchester, NH, 3/27), *San Francisco Examiner* (5/1), *News-Item* (Shamokin, PA, 5/15), *Portsmouth (NH) Herald* (5/19), *Pasadena (CA) Star-News* (5/26), and *San Gabriel Valley (CA) Tribune* (5/26). **LIBERTY FOR WOMEN**, the new Institute book edited by McElroy, has been reviewed in *Publishers Weekly* (4/29), *The Weekly Standard* (5/6), *San Jose Mercury News* (5/12), and *Penthouse* (June). McElroy has also appeared on KSFO-AM (San Francisco, 4/25), KVON-FM (Napa, 4/29), and KSTP-AM (Twin Cities, MN, 6/21).
- "Because I remember too well the arguments made against IBM in the 1970s," wrote Smithsonian curator Paul Ceruzzi in a review for *Knowledge, Technology & Policy* (Fall 2002), "I accept [research fellows] **Stan Liebowitz's** and **Stephen Margolis's** arguments [in the Institute book **WINNERS, LOSERS & MICROSOFT**]." •

*The Independent Review:***Medical Privacy • Reparations • Terrorism**

The Independent Institute's quarterly journal, *The Independent Review*, continues to bring in-depth perspectives on timely, current issues (subscriptions: \$28.95 per year).

- Ninety-two percent of respondents to a September 2000 Gallup poll said they opposed government agencies accessing their medical records without their consent. Members of Congress have given much lip service to privacy, but they have often caved in to anti-privacy forces, according to economist **Charlotte Twight**.

Congress, for example, hailed the Health Insurance Portability and Affordability Act of 1996 as “pro-privacy” (it wasn’t) but gave the U.S. Department of Health and Human Services (HHS) very broad leeway for implementing new privacy rules that govern the collection and handling of Americans’ medical data.

“While continuing to proclaim the ‘importance of privacy’ and to assert that ‘privacy is a fundamental right,’ HHS created a rule that dramatically reduces the medical privacy of all Americans,” Twight wrote in the Spring 2002 issue of *The Independent Review*.

HHS’s new “pro-privacy” guidelines include: broad exemptions that permit individually identifiable health information to be used without the patient’s consent; redefinition of the term “consent” in ways that eviscerate its meaning; the authorization of largely unimpeded medical-data sharing among government agencies; and a failure to restrict disclosure of individually identifiable health information by non-“covered entities” authorized by HHS to examine medical records.

“The chief—perhaps the only—hope on the immediate horizon is a lawsuit filed on July 16, 2001, challenging the HHS medical privacy rule on constitutional grounds.... The outcome of that suit [which was filed by physicians and medical societies in Louisiana and South Carolina], should be watched closely,” wrote Twight.

See “Health and Human Services ‘Privacy’ Standards: The Coming Destruction of American Medical Privacy” (*The Independent Review*, Spring 2002) at [www.independent.org/tii/content/pubs/review/tir64\\_twight.html](http://www.independent.org/tii/content/pubs/review/tir64_twight.html).

- Will state governments push for laws that would require insurers to pay reparations to slave descendants? If so, they may be stopped on constitutional grounds. Reparations packages, according to **Mathew Manweller**, a political scientist at the University of Oregon, are essentially bills of attainder, which the U.S.

Constitution (Article I, Section 9) prohibits.

“The U.S. Supreme Court has defined bills of attainder as legislative acts that inflict punishment on named individuals or members of an easily ascertainable group without a judicial trial,” writes Manweller in the Spring 2002 issue of *The Independent Review*. “As a result of their earlier experiences with bills of attainder and bills of pains and penalties, the Framers abolished them in the U.S. Constitution.”

Manweller’s article explains the constitutional history of bills of attainder, why reparations packages are bills of attainder, and why they should be struck down. “Reparations packages resurrect the long-abandoned notion that people should be held responsible for the ‘sins of the father,’” writes Manweller.



*The Independent Review*, Spring 2002.

“Drawing on their English roots,” he concludes, “the Framers understood that legislative bodies might seek to punish groups in society. In English history, individuals had often been punished simply for belonging to a specific group, such as Protestants or Catholics. The bill of attainder clause essentially sought to protect the people from themselves. Such protection is needed currently in relation to reparations packages. Today, as in centuries past, such laws tempt legislatures to appeal to divisive racial, ethnic, and religious cleavages for current political gain.”

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## *Independent Policy Forums: Terrorism • Feminism • Lincoln and Liberty*

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“would only increase the number of terrorists that will seek to get revenge.”

“Government officials have intimidated those in the public who’ve tried to raise questions, and so there’s been virtually no public debate,” said Independent Institute president **David Theroux** in his introductory remarks. “In effect, officialdom apparently believes the public should not be allowed to discuss these measures, to know what’s really going on, or to question authority.”

However, the audience’s response to the issues raised during this program shows that skepticism toward Washington’s approach to fighting terrorism is widely and deeply felt.

For the transcript, see [www.independent.org/tii/forums/VidalipfTransEx.html](http://www.independent.org/tii/forums/VidalipfTransEx.html).

● **LIBERTY FOR WOMEN** (May 2): The old guard of feminism—i.e., gender feminism—has been crumbling for years because it fails to address the needs of many women today. Instead, a different movement of women’s liberation has been growing, one that respects individual choices by women in *all* aspects of their lives, argued Institute research fellow **Wendy McElroy** at an Independent Policy Forum in San Francisco co-sponsored by Charter 100 and the Commonwealth Club.

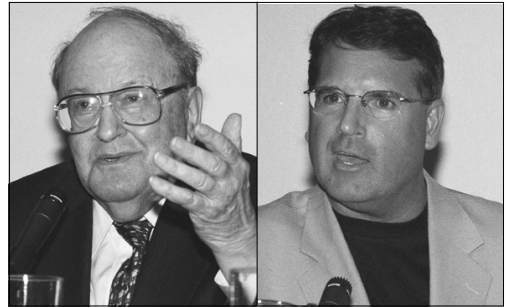
Both brands of feminism claim to support equality between the sexes, but they disagree significantly on what kind of equality is desirable and how best to achieve it. Gender feminism, McElroy explained, has its roots in socialist, collectivist, statist thought. “To socialist feminists, equality was a socio-economic goal,” she said. “Women could be [made] equal only by eliminating capitalism and other institutions that were said to favor men, such as the traditional family and the church.”

By contrast, to individualist feminists, whose roots harken back to the anti-slavery movement before the Civil War, “Equality was achieved when the human rights of individual women were fully acknowledged under laws that protected the person and property of men and women equally,” McElroy said, “including the right of every individual to freely trade their labor and property.”

The difference between the two feminisms becomes clearer when we examine contemporary institutions such as divorce laws and child-custody policies, which McElroy said are often

biased against men and contribute to the alarming rise in male suicide in most western nations.

McElroy also argued that numerous government policies disproportionately harm women—from restrictions against midwives and self-defense to business regulation, censorship, and prohibitions against consensual adult sex—and are rooted not in the free choices of women but in a patriarchy created by statism. For a transcript of Wendy McElroy’s talk, see [www.independent.org/tii/forums/020502ipfTrans.html](http://www.independent.org/tii/forums/020502ipfTrans.html).



*Harry Jaffa (left) and Thomas DiLorenzo (right) debate at the Independent Policy Forum.*

● **THE REAL ABRAHAM LINCOLN: A Debate** (May 7): This debate pitted two abolitionists, historian **Harry Jaffa** (Claremont McKenna College; author, *A New Birth of Freedom*) against economist **Thomas DiLorenzo** (Loyola College of Maryland; author, *The Real Lincoln*) over the question of whether Lincoln was the “Great Emancipator” and statesman or a constitution-violating dictator who could have avoided the 620,000 American deaths of the cataclysmic Civil War and ended slavery peacefully. As a result, the program brought many contentious issues into bold relief.

The evidence presented touched upon such wide-ranging subjects as racism in the views of Lincoln, war crises as the engine for government power to benefit special interests, secession and sovereignty, the Fugitive Slave Clause of the U.S. Constitution, the *Dred Scott* decision, protectionism and business subsidies, compensated emancipation in other countries, and Lincoln’s trappings on the Bill of Rights.

For the transcript, see [www.independent.org/tii/forums/020507ipfTrans.html](http://www.independent.org/tii/forums/020507ipfTrans.html).

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## *The Voluntary City: Choice, Community and Civil Society*

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conflict resolution and crime control are services that few realize have been provided by non-governmental organizations. **Bruce Benson** (Florida State U.) examines the Law Merchant, the voluntarily evolved and enforced legal system that governed international trade among merchants in Europe. Today, private arbitration and mediation plays a similar role in resolving environmental and community disputes. Even policing and criminal prosecution have been provided privately, as **Stephen Davies** explains in a chapter about 18<sup>th</sup> and 19<sup>th</sup> century Britain.

• **Welfare Services:** Can private initiative provide effective social-welfare services? We need not look far for evidence. **David Beito**'s second contri-

bution to *The Voluntary City* shows how the fraternal societies of the 19<sup>th</sup> and early 20<sup>th</sup> centuries served their members—and the poor—before the rise of the welfare state. Through fraternal societies, millions of families received health and life insurance—at an annual premium of about \$2. By 1925, member societies of the National Fraternal Congress represented 120,000 American lodges. **David Green** (CIVITAS) describes the rich history of similar “friendly societies” in Britain and Australia.

• **Education:** **James Tooley** (Univ. of Newcastle) shows that before government schooling, literacy and school attendance rates in England,

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## What to Do With “Obsolete” Life Insurance

**D**o you have a life insurance policy you no longer need? Perhaps you purchased it when your circumstances were different from today's—to benefit a child who is now financially independent, or provide payment of a mortgage now paid off. If so, it may be a great asset to give The Independent Institute. Consider the benefits when you irrevocably name The Independent Institute as both the owner and beneficiary of the policy:

### 1. You receive a current income tax deduction.

When you fill out your itemized federal tax return, you can claim a charitable deduction for the cost basis of the policy or an amount approximately equal to the cash surrender value. For deduction purposes, the gift is treated as though it was cash.

This means you can deduct the gift up to 50 percent of your adjusted gross income. And if you can't use the full deduction in the first year, you can carry forward the unused portion up to five additional years.\*

### 2. You reduce the size of your estate.

The face value of most life insurance policies is includable in your taxable estate, which can mean a significant increase in estate taxes. However, transferring the policy now can remove this “hidden” asset and reduce the size of your estate and any applicable taxes.

### 3. You leave your current income undisturbed.

Giving an insurance policy you no longer need provides current tax benefits without affecting your current income stream.

### 4. It's easy to do.

Making a gift of life insurance is easier than you might think. Your life insurance professional can help you obtain a transfer form from the insurance company or you can contact the company directly.

To make a gift or obtain further information about gifts of life insurance policies, please contact **Robert Calvert**, Independent Institute Development Director, at (510) 632-1366, or [RCalvert@independent.org](mailto:RCalvert@independent.org). •

\*As with any charitable gift, please consult with your own tax or financial advisor to determine its effect on your personal situation.

Please send me free information about making an insurance gift to The Independent Institute.

Please send me information about wills and estate planning.

I have provided for The Independent Institute in my will.

Name \_\_\_\_\_ Phone \_\_\_\_\_

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## *The Independent Review*: Medical Privacy • Reparations • Terrorism

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See “Can a Reparations Package Be a Bill of Attainder?” (*The Independent Review*, Spring 2002) at [www.independent.org/tii/content/pubs/review/tir64\\_manweller.html](http://www.independent.org/tii/content/pubs/review/tir64_manweller.html).

● One week after the 9/11 terrorist attacks, President Bush signed into law the creation of a \$40 billion emergency fund, half of which can be devoted to anti-terrorism programs. This sum is significant: \$20 billion is roughly equal to one-third of total annual spending on day-to-day police protection in the entire United States for all crimes and equal to about 20 percent of the amount spent on highway safety. And more anti-terrorism funding is coming from other government programs.

Is this enough funding for anti-terrorism? Could the U.S. possibly be spending too much?

Budgeting for something as unpredictable as terrorist attacks can never be an exact science, but the evidence suggests that—relative to other risks that Americans face—post 9/11 anti-terrorism spending may be inflated far above optimal, according to economist **Roger Congleton** of George Mason University, in the Summer 2002 issue of *The Independent Review*.

“Even the terrible death toll of September 2001 implies a risk of death from terrorist attack that is well below that of death from ordinary murder or traffic accident in the United States. Indeed, even in that year, the probability of being killed by terrorism in the United States was less than that of being run over by a car while walking,” Congleton writes.

What do the statistics say? During the 1990s, the average number of highway traffic deaths was 41,523 and the average number of murders was 21,173—annual averages that far surpass the total combined number of terrorist deaths in North America since 1990.

“My analysis suggests that the risk of terrorism is less than many other risks that we face in our ordinary lives and that we have no obvious reason to expect this risk to rise dramatically in the near term. Although minor improvements in security procedures may be called for in response to the September attacks, dramatic new domestic policies are not.”

See “Terrorism, Interest-Group Politics, and Public Policy” (*The Independent Review*, Summer 2002) at [www.independent.org/tii/content/pubs/review/tir71\\_congleton.html](http://www.independent.org/tii/content/pubs/review/tir71_congleton.html). ●

## *The Voluntary City*

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Wales, and the U.S. were 90 percent *and rising*. And in many developing countries today, a large private-education industry has arisen to alleviate the failure of government-run schools.

● **Community Life**: In search of more livable communities, millions of Americans have moved into proprietary communities run by private homeowners associations. **Fred Foldvary** (Santa Clara U.) shows how such communities deliver superior public services. **Donald Boudreaux** (George Mason U.) and **Randall Holcombe** (Florida State U.) show how condominium associations outperform city governments. And **Robert Nelson** (U. of Maryland) explains how inner-city neighborhoods can gain the advantages of proprietary communities as Residential Improvement Districts, giving residents control over their lives, enhancing safety and improving use of land and local resources.

In the concluding chapter, **Alexander Tabarrok** shows how economic theories of “market failure” have often failed to account for “government failure,” and the wide scope of private initiatives that have arisen historically.

Copies of *The Voluntary City* are available for \$24.95 paperback, \$65.00 cloth (add \$3 for shipping, California residents add sales tax). ●

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