September 11 Terrorist Attacks

Panel Discussion

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SEPTEMBER 11 TERRORIST PANEL DISCUSSION

Transcript of proceedings of the discussion held at Case Western Reserve University School of Law, 11075 East Boulevard, Cleveland, Ohio 44106-7148 on Wednesday, October 10, 2001.

MODERATOR: Hello everyone. I would like to get started if we could. On behalf of the Frederick K. Cox International Law Center and the Journal of International Law, I would like to welcome you to the second session of our series entitled “Forum 9-11.” Tomorrow it will be one month since the devastating terrorist attacks of September 11, and I would like to have you please join me in a moment of silence to remember the victims and their inspiring courage. Thank you. Before we begin, I would like to take this opportunity to say a few words about this forum. The first session was on October 1. On the first of October, we focused on the international dimensions of the September 11th attack and its aftermath. We had with us four experts. Ambassador Charlie Dunbar, who served in Afghanistan, was here arguing for massive humanitarian intervention in Afghanistan and urged the administration not to shy away from the enormous challenge of nation building in Afghanistan. Professor Ken Grundy was here talking to us about the enormous questions of international relations raised by the September 11th attacks—particularly, the tectonic shifts in U.S. Foreign policy from unilateralists to multi-lateralists, [e.g.] the shift from the dust gathering on Huntington’s Thesis of the clash of civilizations to perhaps mounting evidence of his impressions. Professor Henry King was here talking about his experiences at Nuremburg and the lessons that he thinks are to be applied to this crisis, urging us all to promote legal U.S. Foreign interventions and to promote the international role of law through signing on to a permanent international

* Hiram E. Chodosh, Professor and Director of the Frederick K. Cox International Law Center, Case Western Reserve School of Law.

1 Charles F. Dunbar, Warburg Professor in International Relations, Simmons College. Professor Dunbar served as U.S. Ambassador to Yemen and Qatar and Chargé d’Affairs in Afghanistan.

2 Kenneth W. Grundy, Ph. D., M. A. Hanna Professor of Political Science, Case Western Reserve University.


4 Henry T. King, Jr., Professor and U.S. Director of the Canada-U.S. Law Institute, Case Western Reserve School of Law. Professor King served as a prosecutor at the Nuremburg war crimes tribunal and as chief corporate international counsel to TRW, Inc.
criminal court. And Professor Sid Picker⁵ was here to talk to us about some of the very difficult international legal issues, navigating our course through the very different institutional normative and procedural responses to the crisis whether from war to crime, or in dealing with non-State instead of State factors.

Before the 11th, and perhaps with some considerable amnesia on our part, I think we all thought of international terrorism as primarily a foreign problem. We had our episodes, but I was recalling the other day a symposium we held, [that] we started a couple of years ago, in which I wrote a passage about the mixed blessing of our distance from the Middle East. Now, on one hand, our distance from events in the Middle East skewed our view of reality, but on the other, gave us a certain luxury of reflection. I remember one particular line of that essay in which I wrote, "We step into the public trainer bus, and our primary fear, our primary concern is delay, not death." This statement haunts me now. And how many times have we not heard colleagues of ours, familiar with the Middle East and other trouble spots of the world, saying, "Welcome to Israel, welcome to Lebanon, welcome to Northern Ireland." So we are in quite a new situation. And I think, today, it makes sense for us to look inward, to focus on the domestic implications. Specifically, how will we reconcile a series of conflicting needs? It is these dilemmas that I think we will focus on today. Can we adequately investigate crimes of the 11th without violating constitutional principles against unlawful detention, search, or seizure? Can we prevent or limit future attacks through greater public controls without sacrificing civil liberties that define us as a nation? Can we close our borders to those committed to our destruction without closing the doors on our foreign friends who come to us to learn and to pursue a better life? Can we reinvest in our intelligence capabilities without engaging unaccountably in evil activities that violate human rights and degrade the moral foundations of our society and its cause? Can we become increasingly alert about the risks of sleepers within our midst without legalizing racial profiling or tearing apart our society by singling out, with a broad brush, many innocent people including: Arab Americans; South Asian Americans; Muslim Americans; and other dear visitors from the Middle East and Asia? Can we bolster our economy through optimistic rhetoric and stimulus packages without losing our credibility or foolishly mortgaging a less optimistic future? Because these dilemmas are many and extremely varied, we have brought together a diverse group of experts on criminal law, civil liberties, immigration, intelligence, Islam, and the economy. We had a very impressive group here with us on October 1st, I think we have a fantastic group to help us work through these troubling dilemmas here today. We have provided written bios, so I want to keep my

⁵ Sidney I. Picker, Jr., Professor Emeritus and Founding Director of the Canada-U.S. Law Institute and Fredrick K. Cox International Law Center, Case Western Reserve School of Law.
introductions brief. We will start with three panelists to help us with the criminal justice issues.

To the right of the podium, no implication about political leanings there, we have Lewis Katz, the distinguished John C. Hutchins Professor of Law, Director of our foreign student L.L.M program, and author of many articles and books, including, "Know Your Rights." We are looking forward to the supplement that he is going to write, if perhaps our Attorney General has his way. To help us with the civil liberties implications, we have Jill Davis, staff attorney of the ACLU here in Cleveland who has been studying the recently proposed legislation package, and I hope you will join me in welcoming Jill here today. To help us with the impacts on immigration law and policy, we have Adjunct Professor of Law David Leopold who also directs our immigration legal clinic program here at the law school. And I will put off the introductions of the second hour panelists. We will go with about 10 minutes of comments from each of our panelists followed by some questions from the audience and some discussion followed by a short break and then we will start our second session. So without any more delay, I want to turn the session over to Lew Katz.

MR. KATZ: Thank you. For 36 years I have participated in panels like this and I have written articles advocating limiting government power and protecting the right of privacy of Americans and all people who are present in the United States. My views have changed significantly as a result of what happened on September 11th. I would direct you, as I am sure you all saw, [to] the tape of Bin Laden, declaring Jihad on the United States, that was delivered to Al-Jazeera TV and shown throughout the world. For too many years here in the United States, we probably would have just dismissed him as a crack pot, although we should have taken him very seriously, as long ago as 1983, 84. And then on top of that, of course, we saw the tape by Sulaiman Abu Ghaith of Kuwait, who is an associate of Bin Laden, that was released again through Al-Jazeera last night, promising America a raining of many more hijacked airplanes.

The answer to all of Professor Chodosh’s questions is no. We cannot go on the way we have; we cannot just resolve these issues with the powers that we presently give to the Federal Government, and I am not that sure we can come out of the economic recession, even with the economic stimulus that the administration is going to propose, because we are going to be in a very different country in the next ten years or so. It is going to be a different country because it is going to be a much less open society, and it is going to be a society where people are not moving as freely and as they once did. What is pending in Congress right now, the so-called “Patriot Anti-Terrorist Bill,” expands government powers marginally. Ms. Davis will tell you what [it] means, and she may not agree with me that it expands government powers marginally.
But to me, that is just the tip of the iceberg. I think that we are going to look at a very different America in terms of personal privacy and individual rights. I think that the first issue is: do we need a National ID card? To me, that has always been the sign of every other country, not the United States. We did not have a National ID card. You did not have to show it any time a police officer asks you for it. Well, we have got two issues now. Number one, do we need such a card now? A card that contains the latest technology so that before a person gets on an airplane, a scanner will be able to read that person’s eyes and indicate whether the person presenting the card is actually the person to whom it was issued. Hell yes, we need it right now. I am getting on a plane next week, I wish we had those cards now. The next issue we are going to have to face is whether or not people can be asked to show those cards without cause.

The basic, fundamental principle of fourth amendment jurisprudence in this country is that police may not intrude upon individual liberty without cause. Sure, we have exceptions to that; we can ask junior high school athletes for urine samples to test for drugs and various other situations where it is done either randomly or across the board without any individualized suspicion. And those are called special needs searches, and I have always been extremely critical of the Supreme Court’s willingness to expand the group of special needs searches. In fact, in the last two years, the Court has shown an understanding that maybe they had started to go too far. Well, that issue is going to arise when we face the fundamental question, not just in an airport, whether police on the street, or military on the street, can ask individuals to show that National ID without cause, [and] without facts giving rise to some sort of reasonable suspicious belief. I suspect that we may come down on the side of requiring those things.

During the Vietnam War, police often asked protesters for their draft cards to determine whether they were draft dodgers or to determine if they had burned their draft cards in protest. Under traditional Fourth Amendment principles, police or other government agents cannot require a citizen to produce identification except under limited circumstances, most of which involve a threshold level of reasonable suspicion. The concept of a National ID will raise the same types of issues and must be resolved the same way if individual freedom in this country is to survive. The essence of freedom is not the ID itself, but under what circumstances one may be required to show it. It would be reasonable, and thus not a violation of Fourth Amendment, to require the ID to be shown prior to boarding an aircraft, just as a driver’s license or passport is required now.

I am not sure [about] the issue of sleepers in our society. I mean, do you realize the threat we face at this time? It is far greater than the so-called “Communist Menace” that existed from 1945 until 1992. The Communist agents in the United States, such as they were, were not prepared to sacrifice their lives. They thought, as we thought, in terms of life. That is not true of the enlistees in the Jihad that we are dealing with.
now. These are people who are prepared to give their lives. I do not know if we are going to see more sophisticated plots such as happened on September 11th, but I am afraid, I am desperately afraid, that we are going to begin to see random, isolated instances of people who have strapped-on bombs and just walk into a bus or a shopping mall or a Sbarro’s Pizza Place and detonate the bomb, blowing themselves up and people around them. How do you fight that? I do not know how you fight that, but obviously we are going to have to find a balance. The fourth amendment only prohibits unreasonable searches and seizures. It seems to me that in an emergency situation, what is reasonable increases under such circumstances. It is the rule in many NATO countries now that people have these IDs. France has high tech IDs, just like the ones I am talking about. Great Britain scrapped the National ID system at the end of World War II. Great Britain is now considering bringing it back.

Another thing they have in Britain right now is TV surveillance cameras, all over the place. We think we have a lot of them, but there are over two and a half million surveillance cameras in public places in Great Britain. When you couple that with computer technology, they are able to identify people whom they see through those surveillance cameras. I think we are going to get used to a lot more of that in public places here. There is no constitutional issue with respect to such surveillance cameras. What one shows in a public place, one has no protected fourth amendment privacy interest. Therefore, there is no constitutional issue here, but it is the very nature of this society that protected, nurtured and valued individual privacy. You don’t have that kind of privacy when everything in public is under surveillance.

What are we going to do about suspicionless stops and searches of parcels by police? Once we have a rash of bombings, are we not going to expect the police to start inspecting packages that people are carrying before they get on buses, before they enter places like shopping malls? We check people today before they enter sports stadiums. I am not quite sure what the constitutional legitimacy is where the sports stadium is publicly financed or is owned by a city, such as here in Cleveland. But that issue has been skirted because of the need for safety. [This was true] even before the bombings, because you have crazy people who are going to bring bottles and cans into sports events and may throw them. Now we are facing more serious issues. You know, the drunken football fan is not one of our greatest concerns at this time.

And finally, we come to the last issue, one I never imagined I would ever talk about. I think one of the great problems in our society in the last twenty years, and you are all familiar with it, it is called racial profiling, in which police stop individuals because of their color, or because of their Latino ethnic appearance. That is going to become a likely occurrence in this country, only it is going to be aimed at Arab American people or Southeast Asians. It is a horrible thing to contemplate, but when you are
boarding an airplane, [should] the police spend an equal amount of time asking me [a Caucasian male in Western clothes] about my bona fides, or questioning someone else? And those are the issues I think we are going to face. I am not pleased with the side I come down on, but I am concerned about national survival at this point.

MS. DAVIS: Okay. We, over the last month [and] as you can probably imagine, at the ACLU have been bombarded with various issues involving the issues of September 11th, [...] from school prayer and resurgence of the flag burning amendment, to racial profiling issues. And what we have been scurrying around doing over the last week or ten days or so, has been looking at some of the legislation that has been proposed in Congress, to give law enforcement, supposedly, the tools that it needs to combat terrorism. [C]ertainly, life is very different now, and we need to look more closely at the powers that we give law enforcement and ensure that they have the tools to do their job.

What we have noticed in reading, however, the proposed legislation is that there are several overarching concerns that appear in the bills. There are two: One has been—well, there are three actually—one has been proposed by the Bush Administration, that is the Anti-Terrorist Act, and that has been amended by both the House in their PATRIOT Bill and the Senate in the U.S.A. Act. And they have come up with those catchy titles for a reason. So, I am going to sort of go over [those bills] a little bit.

There are a lot of similarities between the bills, but, overall, our feeling is that the House Bill has some provisions that make it more acceptable than the Senate Bill. There are certain overarching concerns involving both pieces of legislation. One is that there is a distinct lack of judicial oversight in the surveillance provisions, the wire tapping, and the pen registers and the trap and trace deals. And that is certainly a concern, because of the system of checks and balances that we have. The judicial branch is there to check what the executive does, and these bills drastically reduce the judicial involvement. Also, the bills expand surveillance outside the area of terrorism. The definitions in the bills are so broadened and there is a lack of time limits on certain provisions that they almost amount to a blanket permission to law enforcement to go about surveillance, to go about taking peoples’ records, to go about detaining non-citizens. So I am just going to go over a handful of these, because both bills are pretty vast. They are each about 110 pages.

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Primarily, with the surveillance provisions, the government has the power to use pen registers and trap and trace devices, which enables the government to monitor outgoing calls to get the number that is being dialed. And the pen register, no it is the other way around I think, the pen register enables them to monitor the outgoing and the trap and trace the incoming. The bills expand the government's powers on these trap and trace orders to web browsing information. It enables them to collect a lot of unspecified, undefined information on, as far as peoples' web browsing habits, their e-mail, as well as their phones. And it expands, rather than—previously, the government could only look at the numbers that were being dialed. Now they can look at the dialing, routing, addressing and signaling information regarding e-mail and the web and the Internet. And of course what that does is—and I do not think we have got really a handle on the Internet and e-mail and how those means of communication are different from phone or from letters or from anything else. I mean there is certainly a lot of information that can be gained, and personal information, and I am not a great—I am not very technologically capable, but I know that there is a lot of information that can be gained just from web addresses. So that is all going to be sort of free game.

The bills exclude the content of an e-mail, but often times, signaling and addressing information is as good as getting the content. Now the House Judiciary Committee is looking [at] some kind of clarifying language to actually define what the signaling information actually means. Because we do not know. What this also does is open up the ability for the FBI to use Carnivore, which enables them to, basically, go into an ISP and read all the communications that come through it. They are supposed to promise that they are only going to look at the communications of the target of the investigation. But that is about the only controls that are on that [House Bill].

You have probably heard a lot about the idea of roving wiretaps. Under current criminal law, the authorization for a wiretap only applies within [a particular] jurisdiction. And when a judge issues an order for a wiretap, it can only be used in that jurisdiction. Under the new law, essentially, the government is getting an order that is going to be valid anywhere. This marginalizes the judge's role. It essentially allows a blank warrant, which is barred by the constitution, and the judge cannot monitor how the order is being used. So that is a problem with that [House Bill].

Under the new provisions of the Foreign Intelligence Surveillance Act, the FISA, (which is specifically geared towards getting foreign intelligence information), those [roving wiretaps] apply to any computer or any phone. So if an individual is using a pay phone, all the pay phones in that neighborhood can now be tapped. Same with a computer, if the person is in the library using a computer, all the computers in that library can now be tapped. And I believe the House is also working on limiting language for that.
The sneak and peak warrants, which you might have heard about, allow for the delayed notice of a search. This is in both the Senate and the House bill. It authorizes a search without any notice to the subject of the search. The notice must be given at a reasonable time later. What this means then, is the subject of the search cannot assert their fourth amendment rights, cannot challenge any defects in the warrant, and cannot guarantee that the agent is going to comply with the limits of the warrant. Because the agents may get in there and may be supposed to be looking for one thing but could conduct an expansive search.

[In addition to] all these provisions, we have also got the broadened definitions under the Foreign Intelligence Surveillance Act. This [change] is geared toward looking at foreign spies. There is a much lower standard for conducting surveillance under FISA because it applies often to foreign nationals, it applies to situations and people that do not have the same constitutional protections as American citizens. This, the FISA powers, have been broadened. Instead of applying specifically to foreign intelligence agents, if it turns out that FISA yields evidence of a crime and the investigation of the crime becomes the primary purpose, then these much lower standards apply.

There is also a number of Provisions that will eliminate protections of the FERPA, The Family Educational Rights and Privacy Act. FERPA [ensures] your student records are confidential. There are provisions in the bill that, and this is something that is happening now that we have gotten a lot of reports on, that, I think in 200 colleges and universities, the FBI has come in and said “We need the records of all your foreign students.” It is under the emergency provisions of FERPA [that] they are asserting [this power]. The new anti-terrorist bills, both of them, makes it much easier for them to just come in and take people is records, and the only basis, as I said, could be that the person is a foreign student.

[Question from audience]: Did the 200 universities give out the records?

MS. DAVIS: I believe they did. A number of them did. But you know, they have been visited and that is going to continue. So, I mean, that does not even include the immigration issues. I do not know anything about immigration law, but, to me, [these provisions] seem pretty Draconian and pretty severe. And again, certainly law enforcement needs tools, but this so broadens government powers. It is [the legislation] put together, obviously, very quickly. I think that we can still have the protections, and we can balance our safety and our rights. One thing that the House Bill has is a sunset provision. So if worse came to worse, if all of these provisions did go through, at least you would have two years to re-

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evaluate. Because once we pass these [laws], if we do not have that [re-evaluation], we are going to be stuck with them. And certainly history has shown abuses by the government. Just look back at Richard Nixon. When law enforcement is given the tools to be able to spy on its citizens, it often does. It would be a shame for us to give up, one of our most important rights, to privacy, for security that could possibly be accomplished in another way with some thoughtful and careful crafting of legislation.

MR. LEOPOLD: Even in the best of times, immigration law is kind of on the pendulum that goes back and forth. If I can take you back to September 10, 2001, we had a statute which, and we still have, a statute which requires the mandatory detention of people who have committed minor crimes, even for long term, permanent residents, a statute that authorizes the use of secret evidence in removal proceedings and deportation proceedings, a statute that has a terrorist removal court in Washington, and a statute that describes terrorism very broadly. So that is the backdrop. That is what we already have on the law.

The law, I think I heard the term Draconian and severe, not necessarily in the context of terrorism, is Draconian and severe. But the law on September 10, 2001 [was also severe]. The immigration statute was, in fact, a pretty rough statute. The Supreme Court of the United States has ruled since the early 1950s, that when all is said and done, immigrants, even long term, permanent residents, in the United States, folks who have lived here all their lives virtually, folks who do not even speak the language of their home countries, folks who have husbands, wives, children in this country, are guests. They are nothing more than guests after it is all said and done. And as you know, those of you who have had a guest in your house, you can always tell a guest to go home. And right now the host is pretty nervous. So my point is that the law already was pretty Draconian.

On September 10, we were worrying about immigrant rights, as immigration attorneys and people involved with immigrant rights issues. We were hopeful for Vincente Fox's visit, remember that? That was in the week before this horrible attack. [We were hopeful] that [his visit] would lead to some sort of a guest worker program to legalize all of the illegal Mexicans. (I hate to use the word illegal; undocumented Mexicans in this country do legally pay taxes and so on and so forth.) We were hopeful that legislation pending in the Congress would strip off some of the more Draconian measures that I mentioned before with respect to people who had committed minor crimes. [Hopeful that] people who had committed more serious crimes would no longer be subject to automatic deportation but would have the right to go before an immigration judge and make a showing of equity. We were hopeful that was going to pass. We were very happy that in the summer, when the United States Supreme Court, in \textit{INS v.}
St. Cyr,9 ruled that long term, permanent residents who had been convicted of crimes could go before an immigration judge under certain circumstances. And we were very happy that in the case of Zadvydas v. Davis,10 the U.S. Supreme Court said that mandatory detention of folks that are un-removable from this country, (there are literally folks in this country who have never committed a crime in this country who are sitting in prison for life), that those folks were entitled to a hearing under a reasonableness standard. That is what we were thinking about on September 10.

Obviously, the landmark, the whole landscape has completely changed. I and my colleagues who practice immigration law and work in immigration law, the major words here, I suppose, are obviously shock and horror. I do not know anybody who does not put the security of this country first. The security of our children first. But we are also grappling with the issue of long-term effects on civil liberties, like everybody else. In the first week that followed this attack, immigrants were denied access, all immigrants were denied access to counsel, the ones that were detained. Unheard of, unheard of for at least the first week. That went away. There has been detention, we have found, across the country of immigrants from many Middle Eastern countries on issues that normally would not spark a detention. Say, a marriage fraud issue. The [INS] used to never detain in a marriage fraud issue, and now the INS is detaining on these issues. We have been advised point blank, I was advised by the district director in Ohio, to advise other attorneys and clients that no longer will immigrants be given a pass if they are picked up without their ID cards. Professor Katz mentioned ID cards for U.S. citizens, well obviously under the statutes, immigrants have to carry ID cards, but the government never enforced that rule. It is a misdemeanor, it is not a big deal, but you have to carry an ID card. That probably is a good thing to enforce, but the idea being that they are clamping down as hard as possible on immigrants. The point is that the law already is very drastic.

Much of the immigration law, the way that it is set up, those of you who have never come in contact with it, really what is going on in the immigration statute is one thing, it would not be there but for our interest, the nation’s interest, in national security at some level. Who gets into this country? Who does not get into this country? It is a national security sovereignty question when it all comes down to the basics. The other issue that overrides the immigration statute is a policy question made by Congress since 1952, over and over again, in different settings with different political contexts, that is really a decision about who do we want to be as a nation. So the statute is designed, on one side, to bring in highly skilled employees, people who want to spend money, people who are

bright, and families of people who are already here. I mean, that is the way the statute is set up, [but] it does not always work that way.

The question of keeping out people we do not want, the problem there in the immigration context is, we are not a homogenous nation, we do not all look alike in this country. We are not comparable to an Asian country, with Japan, where there is predominantly one ethnic group. What does an American look like? What does someone who wants to do harm to this country look like? Does he look like Mohammed Atta or does he look like Timothy McVeigh? So it is a much more complicated question when you are putting it in the context of immigration because the statute is designed to bring diversity to this country. The country wants diversity. That is why the statute is that way. Will there be any major overhaul in the statute because of this Act? I do not think so, but I do not know. In terms of whether the policy will be to spark employment at immigration or immigration based on family and diversity. I do not know, but I would not be surprised if there are some changes. I have heard of nothing at this point. The major changes are coming from what was just described as the PATRIOT Act and the U.S.A. Act. And I can go over a couple of them. They are going back and forth and I expect that there will be some form of these changes in the law and maybe some more. You never know what they are going to throw in at the last minute.

Pure speech will be a deportable offense if it is intended to incite imminent violence. Pure speech. Now, you guys are thinking, those of you that have had Constitutional Law II (First Amendment Law) and studied Brandenburg v. Ohio,11 Dennis,12 clear and present danger, and all that, you are thinking that is crazy, that is unconstitutional, that will never fly! But we are in the immigration context and the question of first amendment in the immigration context is only an open question, it has really never been resolved. My prediction is that the court would uphold a deportation statute, which deports people on pure speech. They have done it before, and those decisions are reflected at that time McCarthyism. The decisions now, of course, would reflect, as Professor Katz points out, something much more dangerous.

There is deportation for material support for terrorist groups, which is fine, but the problem is, what is a terrorist group? A terrorist group can be defined as any group that possibly incites violence. It is a very broad definition. Operation Rescue could conceivably make some of you happy, but Operation Rescue, Green Peace, etc., some of what they do is violent. Groups that we normally would not think of as terrorist groups will be terrorist groups if some of this legislation is passed. So we need to think very carefully about what we are doing here—the definition of terrorism itself. The current law talks about use of explosive devices and what you

would expect a terrorist to use. It is hijacking, explosive devices, and things like that. It makes sense, right? The PATRIOT Bill includes that and any other object. So, if you throw a stone, that is a terrorist act, conceivably. If you throw something less than a stone? You have got to watch these broad definitions that are coming through. And yes, we need to be vigilant, but we also need to be vigilant about where we are going and where we are going to be as a society. Because, ultimately, if we clamp down, and we give up these rights, it almost become a cliche at this point, we will give these people, if you can call them that, we will give them what they want.

One of the most chilling things that they put into the statute is what is called certification. Certification is where the Attorney General and the House Legislation, (it is non-delegable, that means it either has to be the Attorney General himself, or the commissioner of INS, Immigration Naturalization Service), can certify a permanent resident, a long-term, permanent resident as a terrorist or related to terrorist[s] on secret evidence. With no review by any court. Period. What certification means is that that person will be subject to mandatory detention until they say it is okay. Now the case that I mentioned from this past summer, Zadvydas, does not apply to terrorism, that case dealt with criminal aliens. Terrorists are obviously criminal aliens, but it [Zadvydas] does not deal with the terrorism provision. So that case does not give us much guidance. They could be held for life. If a person who is certified by the Attorney General or INS wins in the deportation case or wins in the criminal proceeding but is still so certified, they are subject to mandatory detention for life, or until the Attorney General says it is fine to let them go.

The provision gives INS seven days to hold somebody without charging. I personally do not have that much of a problem with that, I think under the current situation they need to be very vigilant in their investigations. Those are pretty much the main points of what is coming about.

The final point I want to make is that when we are dealing with the immigration statute, we are dealing with the statute that governs the lives of a lot of very, very vulnerable folks. And a lot of those folks are folks who have lived here for years and years and years. And most of them come here, and I realize that I speak from a bias, but most of them come here not because they want to engage in terrorism, but either because they want to get away from lives like that or because they want a better life for themselves.

MODERATOR: Thank you. Thank you. I wanted to step past my own questions, particularly my feelings of shock at Professor Katz's comments. I have been filled with worry throughout this last month. And I think my worries only deepened when Lew tells us that he's changed his views on fundamental issues that he's committed himself to during the last
thirty-six years. I’m not saying I disagree with your views as you now hold them, but I do not think I’ll get over my emotional shock at hearing your views change so rapidly within just a few minutes. I am going to step past that for a moment and open it up for questions from the audience. Yes.

(Question from audience): I have a question for Professor Leopold. Knowing one of the terrorists recently lived in Canton, Ohio, I’d like to know what impact that fact has had to make lives worse for the workers who were, I believe it was at Case Farms? Is that where he worked?

MR. LEOPOLD: Yes, Case Farms.

(Question cont.'): What impact has that had on other workers from the Middle East and how does that spill over into treatment of workers from Latin America?

MR. LEOPOLD: That’s a good question. A little background on that, there was a raid on Case Farms, which is in the Canton area, because of a connection with this alleged terrorist of Moroccan descent who’s being held, I believe, in New York now. Well I can tell you that there are others who were swept up in that and there were others arrested whom the FBI and INS say are apparently connected to this. At least about seven of them. I do not know if they are still in the Cleveland area or if they’ve been moved off. So I can tell you from my own experience that I have had many clients call me worried about being detained, worried about being picked up. None of it has happened to them. And I have been dealing very closely with the district director because I am head of the chapter, and I have got to say at least on its face, they’ve been very, very good. I do not get any sense that they are running around picking up Arabs or Muslims on a wholesale basis. I really do not see that. On the other hand, it does not mean that it’s not happening to a certain extent in other parts of the country or even in Ohio. So my sense is that there was a rumor at one point of a sixteen-country list, where if you were from one of the sixteen countries, you would be detained. That is not true. And my experience is that that is not happening. I think that they pick up people when they have some credible evidence. So, I will be honest, at this point I don’t see anything that makes me nervous in terms of human rights or civil rights violations.

(Question from audience): This is for Lew Katz. The people who hijacked the airplanes on September 11th, many of them had lived in this country for quite a while and presumably would have carried an ID card when they boarded those planes. And any other sleepers who are now in the country presumably would also. How then would an ID card prevent future terrorist attacks?
MR. KATZ: Well, a couple of things. Two of the people were being sought by INS or the FBI. Perhaps that would have alerted the authorities so that maybe one of those three flights would not have taken off. Obviously, we are not going to be able to go back and correct everything that has happened. I think we are going to become more cautious about whom we let in. I think we are going to permit government agencies and law enforcement authorities to exchange information about people. But I think that is going to have to be. I don’t have the catchall answer to terrorism. I think it is one step. I agree with what Ms. Davis said. It is not contrary to what I said. I think we always have to be concerned in this country, or any country about government overreaching. I mean, when Representative Bob Barr is objecting to some of the provisions in the administration’s bills, then we know that the attorney general is overreaching. I do not have the answer. We may not have prevented those hijackings. And we may not prevent all of them in the future even with what I’m suggesting. However, I think we would have a better idea of with whom we are dealing and who is getting into this country and getting on planes.

(Question from audience): This is also directed to Lew. You may be right about ID cards being something that we should go to. But I have two concerns. One concern is about abuse and the other is about evenhandedness. I think that the overreaching point that you made certainly would apply where parties have the right to, for whatever reason, ask someone for an ID. I think that when you talk about distinguishing between somebody who fits a profile at the airport in order to search that person, and somebody who does not, that there is a real problem of unfairness. There are stories from the Israelis, for instance, people who have been a threat who don’t fit the profile. So I think that, while there are costs associated with being evenhanded, one of the ways in which we might protect the liberties that we cherish is to institute some kind of system that might help us to circumvent some of these attacks. The evenhandedness point is a point we want to stress even though costs are involved in that.

MR. KATZ: Absolutely. I do not disagree with that. I have talked a lifetime about government abuse and overreaching. I’m not going to suggest that we’re not going to have continuing and ongoing problems with such instances. I do think, though, that the Israeli system, of really questioning and looking very closely at people before they board a plane or before they enter the country, is a very harsh one. I could not figure out why they were asking me so many questions. Because I had come from Saudi Arabia and Jordan. I caught on after a few minutes. But the fact of the matter is, since they instituted those policies, they haven’t had hijackings, and maybe they have just been lucky. Yeah, profiling is a
terrible thing. The instances of unfairness, the singling out of people. It's been an ongoing problem in this country, which we have not addressed. The Supreme Court has not been interested in listening to it, in fact, has developed rules to avoid confronting this issue and really allowed police to pursue it. It has only been on the political side. For example, the State Troopers in New Jersey were called to task by a then Republican governor. But I think it is one of the devices that we are going to have to use, especially at airports. But as I said, the next arena is not necessarily or likely to be airports and planes.

(Question from audience): I have a question on censorship. In the current picture, we do not show any of the videos released by the terrorists because there might be a signal in there that triggers them to do something here. Are there lots of other mechanisms besides “triggers”?

MR. KATZ: No American administration has ever liked the other point of view to be expressed. This is clearly a more extreme situation. One can wonder why Al-Jazeera is not just releasing these tapes when they get them, rather than accept the condition that a certain event happened and then release it. So Al-Jazeera may be a little too tight with the Al-Qaeda network, but I do not think there is any question, that dissent will continue in this country. It is not going to be popular, but it is going to be protected. Certainly the government is not going to be able, in this country, to curtail it. And I doubt that the government is going to be able to persuade the government of Qatar to curtail Al-Jazeera’s free press, which is very unusual in that part of the world.

MODERATOR: I want to introduce briefly our guests for the second panel. I hope all of you have gotten a chance to read their impressive backgrounds. First, as I mentioned in the first hour, to help us with our understanding of the implications for the intelligence community, we are very pleased to have Ted Gup with us today, who is the Shirley-Wormser Professor of Journalism and Media Writing, and the author of “The Book of Honor, the Secret Lives and Deaths of CIA Operatives.” We pose the question back to him in his own words, how to “navigate between the values of an open society and the demands of a craft rooted in deception and betrayal.” I quote from his recent book, to help us understand more about Islam, and Islam and it’s relationship or its lack of relationship to violence, as well as the impact of September 11th and its aftermath on our Muslim community. We have Ramez Islambouli who is the director of Muslim Campus Ministry here at Case, so thank you very much for coming. To help us do a little bit of what is often dangerous economic forecasting, we have Professor Sam Thomas who is an award winning teacher of banking and finance here at the Weatherhead School of Management at Case Western Reserve, and I think, Cleveland’s recognized top authority on
the stock market. So again, we are going to hear from our panelists for up to ten minutes each, and then open it up for questions. I would like to start with Professor Gup.

MR. GUP: Thanks a lot. The first thing that I feel compelled to tell you is that in these days, everybody is looking for an expert. Everybody is looking for something to say, something that they have not heard before, fresh, insightful and authoritative, and it is not me. You know, I just do not want to queue up in that long line of frauds. Nobody knows what is going on. Anybody who pretends that they do, that they really know what is going to happen next, what is happening now or even what has happened, should not be fully trusted. That is not a disclaimer of false modesty, that is the only true thing that I may be able to tell you today. So now, I thought what I would do is just talk, off the cuff, for a few minutes about the CIA. I am not a scholar of the CIA, I am a student of the CIA. I never worked for the CIA, I have interviewed about a thousand people who have worked for the CIA. I spent a number of years hanging around Langley and people who worked there and I have also come to know some of them in foreign lands. I do not have any great vendetta against the agency. I do not wake up in the morning thinking of ways to destroy them. I know some people do, and I am not in that camp. I apologize. I would say a couple of sweeping things about the CIA, and I am not sure they are true, but I am sure that I believe them. One is that the agency is incredibly ill suited and ill equipped to deal with the current circumstances. By dent of a number of handicaps, one of them being historical, it is a slave to the past. It is a slave to the Cold War. It is structurally, theologically, philosophically in every way a slave to the Cold War. It views enemies in the context of foreign states. That is an anachronism today. It posts the bulk of its covert operatives in foreign capitals. The bulk of terrorists do not operate in foreign capitals. It was very funny, not at all, when President George W. Bush went to Langley recently, and commiserated with the CIA folks there. He said basically, "My heart goes out to you. I know you've been keeping long hours." And this is a quote, "and eating cold pizza." I was thinking, my God, here are people who have been living in caves in the mountains, in rocky terrain with little food for years conspiring to bring about our downfall and his heart goes out to someone for eating cold pizza. That is part of the problem. Our folks are rather pampered. They are well intentioned, but they are just not accustomed to really getting down and dirty. I am afraid that the bad people in this one take the long view and we

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14 Id.
take the short view, which is classically American. We look at intelligence the way we look at an ATM. You know, we put our card in and we want the intelligence out now. And if we have to wait a nanosecond we get itchy. We are fighting folks that preposition and train their people years in advance. You know, I read recently an excuse by one of the former directors of [the] Central Intelligence [Agency] who said basically that it takes a long time to train someone in the language, culture and history of a region. Is that not the job of the CIA? I mean, that is no excuse. That is very disturbing to me if our lives depend on that attitude. I know many folks in there that are very courageous, very willing, but we are impoverished linguistically, culturally, and historically. Our regional familiarity, our ability to pass among the people that we would infiltrate is profoundly, profoundly limited. Let me just add one other thing, this will sound very naive to you, forgive me, but I am aghast at the way we have reacted to the crisis, particularly with regard to Arab Americans. And here is a little footnote that you might think about. We should tolerate diversity, promote it and hold it in high esteem. It may well be that our chances of survival depend upon the assistance, cooperation and help of the Arab American community. You might ponder that. I believe that. Okay, excuse me. I will get off the high horse in a minute here. There are many reasons that we are ill suited to deal with the situation. One of them is that we are a high-tech society fighting a low-tech foe that is not fettered by moral constraints. So that is an advantage right there. The more successful we are, the more it inures to their benefit. The more it creates a coalition of like interests against us. That is an awful paradox and we have become reliant on high tech. We have invested billions in overhead satellite imagery to track groups that leave no footprint, and that is not a good situation. We have disinvested from human intelligence, from the people in the field. I know a guy, who—and I am going to close on this, because I really want to pass the baton here. I am more interested in what my colleagues have to say. I already know what I have to say. I will end on an anecdote. A guy I know who has been out in the field a long time, who is real tough—as tough as they come—and he will die for this country in a heartbeat if he has to. He has been in counter terrorism for years and he has operated in the Mid East. He is not a native born American. He was telling me that this young recruit in the agency came to him and said, you know, basically, “I want you to mentor me, I want to go out in the field with you. I can learn from you.” This guy said to him, “Smile,” and the guy smiled. He then looked at him and said “I see ten thousand dollars worth of American orthodontics there. I’m going to go get a hammer and knock out half your teeth and then you can come with me.” That, in a nutshell, is part of the problem.

MR. ISLAMBOULI: Well, long before the tragedy that happened on September 11th, if you watch any movies or TV programs, the image of an
Arab or a Muslim is mostly the same. One is riding a horse, long beard, funny hair, funny mustache, having a sword, chasing women to add some to his harem and chopping heads of whoever stops in his way. This is an image that has been in our media. So, the stereotyping did not start now. It already existed. That is why what happened on September 11th added to that image. That is why a lot of Muslims and Arabs face problems and harassment. So there is a responsibility on the shoulders of our, can I say media? Okay. How is violence to Islam, and why we are hearing now, more about violence in association with the Islamic faith?

With the limited time I have, I just want to give you couple of points here. Really, if you look back at the history of Islam and how it started in Arabia, and how the Prophet Muhammad (peace be upon him) started the message of Islam and spent about thirteen years in the city of Mecca preaching about Islam and was prosecuted and harassed and oppressed. His followers were even killed. He never gave the green light to assassinate anyone or promote violence or kill. When his companions questioned him about that he said, that this is how faith is built in the hearts of people. He told them to think about those who had messages before you and how they were persecuted for their ideas and for their thoughts.

The only time, or the first time that permission was given for Muslims to fight as it was revealed in the Qu’ran, Islam’s holy book, where it says that you have the right to defend yourselves. It gives permission for the ones who were oppressed and who were driven out of their city and out of their homes to defend themselves. If you go through the history of Islam, really it was not the aggressor in the first place if we really study it from a very unbiased perspective. The first violent act that really was alarming in the Islamic history was actually in the time of the fourth successor of the prophet Muhammad (peace be upon him).

Actually, it was at the time of the rulership of the prophet’s cousin, Ali, who had a problem with another person, the governor of Syria, Muawia. They fought, you know, Muawia rebelled against the Khalifah, the Muslim ruler. They were fighting each other. When the governor thought he was losing the battle, he used a trick. He asked his followers to raise their Qu’rans on their swords, which means that the other party will never kill them if they are holding the Qu’rans. Then the other party said, “Let’s negotiate.” But he was rebellious against the rulership, against the authority. But in that he agreed to have a negotiation and what happened is that a group of Ali, the group of the ruler, did not like that. They thought that the ruler had betrayed them and he betrayed Islam. That is what they call Al Khawarij or those who left Ali as a ruler. They give themselves the permission to kill him. And actually he was eventually killed by one of them. So what happened is that they did not accept the rulership or the authority and they give themselves a permission that if someone is not following what I think is correct, then I can act as God’s agent and remove
him. I do not think this is only for Muslims. I think many people share this same thing.

We have many people who will not accept the other. There are some people who would turn violent towards those who disagree with them. But through the history of Islam, really it was not really violence associated with Islam. Most of the time, to be honest, the real religious war that happened during the Islamic history was the Inquisition against the Muslim in Spain and the Crusader missions. From that time, Muslims thought the West, or Europe, has a problem with them and has an eye on their holy lands, especially in Palestine. So the feeling was, from that time that Europe, or the west or the Christian world will have armies ready to invade the Islamic world and take back its holy places.

There was an interesting thing that I discovered while conducting my research. I was studying the crusader missions and I found that the city of Constantinople, which was the capital of the Byzantine Empire, which would eventually fall to the Ottoman Empire, was never destroyed by a Muslim army. Its destruction came during the seventh crusader mission by a Christian army who looted and killed a lot of people. So why, nowadays, do we have a problem? Well, to understand this, we have to understand that in the early 20th century, with the fall of the Ottoman Empire, which still was a Muslim rulership over the Islamic world, and in reality it was hard for Muslims to fight against another Muslim, even if he was an oppressor. But with the fall of the Ottoman Empire, we have countries that came and started having pieces of this cake.

If you look at these maps of some of the Arab and Muslim countries, without defending anybody, it’s like taking a ruler and just drawing lines that dissect lands and people. And that plan, still have a sour taste in the throats of Muslims. So with that thing, Muslims thought that, or Arabs that they need to rid their countries from these colonial groups or countries that are in their countries. And if you study the history of the early 20th century, you learn about the million who were killed in Algeria fighting the French and the thousands and thousands that were killed in Libya fighting the Italians. And those who were killed in Egypt fighting the British. And those who were killed in Syria fighting the French. But then France, Britain and the other countries were a little bit smart. They said instead of losing our armies or soldiers, we can leave and leave someone behind us who are local. They can deal better with their people, but keep our interest there. Some of our interests is the oil.

Understanding this aspect, there is another aspect that we have to understand. It has been floating around, it is what you call the Wahhabi movement. The Wahhabi movement started also with the early 20th century, but it was more as a religious movement that wanted to bring the religion back to its purity. People started deviating from the Islamic traditions, worshipping Muslim scholars, visiting their graves, trying to get the blessings from them, a lot of what we call the Sufi ideas. So the
Wahhabi movement started to get rid of these practices. And they cooperated or they went along with the Saud family to help both causes. So the Saud family can unite the Arabian peninsula there and the Wahhabi can get their religious motives. But, really they were not much interested in politics. More concerned about Islamic rituals.

What happened next is that the governments who were in charge in these Arab countries and these Muslim countries, and if you study the history, you find that most of them are from military background. Just go over and start counting or naming all these presidents who are in charge now, you will find that all of them came from the army, armies that were trained by either the French or the British, or kings and princes who were installed [also] by colonial powers.

Movements tried to fix these problems in democratic ways, in peaceful ways. They look at what is going on in other countries and they want to do the same thing, protesting. Actually, as we all know in third world countries, these movements are dealt with very harshly and people were thrown in prison and treated poorly. So, the ones who were moderate and thrown in prison turned into frustrated, violent people who thought that these leaders betrayed them and the only way we can deal with them is as the Khawarij did in the beginning, kill the leaders. So that’s how the current Jihad groups started.

Most of the Jihad movements started in prisons. In prisons in some of the Arab countries where they got so frustrated with the system, they looked around and saw countries where there is widespread illiteracy, homelessness, and poverty. But still we have a lot of wealth. We believe our religion is perfect, so why do we have all these problems? The only thing you can point to is the leaders. So these frustrated people turned to violence. The thing that added, how we say, added salt to the mixture, is what happened in Afghanistan, where the Afghani people were fighting the Russian invasion. And a lot of countries allowed their citizens to go and fight there. Was their training provided by the CIA? I am not going to go in that avenue, but I will say that the people there were able to defeat the Russian Empire, the Soviets.

These Arabs or Muslims who fought there believed that you can win, even if the enemy carries more sophisticated weapons. What happened when these people came back to their countries after the war was over? Instead of being welcomed as heroes they were thrown back into prison. They were a threat to the current regimes there. The leaders rationalized that if these people were able to defeat the Soviets, they would easily defeat these puppet governments. That is exactly what happened. So, you add this frustration with fighting experience and you get a lot of frustrated people. But the interesting thing about this is that now these people turn their frustration to what they think is the source of their problem, the countries that support the stability of governments in the region.
I think that is how the message of Bin Laden spread. People might disagree with the tactics that he might use in his war or his Jihad with the west. But, I will be honest with you, he will also talk about these governments who are misusing their wealth and abusing the people in their own countries. So with this, a lot of Muslims are talking about the unity of the Muslim nation. Why not all Muslims or Arabs come and establish their own country or their own nation? They look at Europe where there are of different languages, even of different heritages and how they are trying to come together, removing boundaries, borders, making one currency. They look at this and say, “Why we as Muslims or Arabs cannot come and join and be a power like other people?” So it is interesting—it needs more time to discuss, but I just want to shed some light on what is going on from a Muslim perspective.

I would like to end by saying how the Muslim community or the Arab community in the States will react. Well, there is a motive, I think, from those who committed these terrorist acts in New York and the Pentagon. They do want to put more hatred in the hearts or the minds of Americans against Muslims. On the other hand, they do not want Muslim men to line in front of embassies, European embassies or American embassies trying to leave their country to a better life here where they can express their thoughts and words, and they can work and earn a decent living. They want to put in the heart of these people that if you are going to the United States, you will be harassed and you will be oppressed and your mosques will be terrorized. They might say that it is not an easy life, that it is better for you to stay in your own country. And, if you stay there and you are so frustrated you can turn against your own government and demand a change.

With this in mind, I think that the obvious response from the Muslim community or the Arab community is very interesting. Many are now talking about more involvement in the politics in the American government and in social work. The Muslim presence, we are talking about one hundred years of presence in the United States, and you look at the faces in government and you do not see a single Muslim. I do not think the problem stems from the system.

I think the problem comes from the Muslims who do not want to be involved. So now there is a call and demand for Muslims to be more involved in the political arena. You look at the Congress, there is not even a single Muslim in the Congress or the Senate or in other spheres of the federal government. So there is a push now to be more involved. A push to sound your voice, even if people do not want to hear it, because this is your constitutional right, to demand your rights. And I think this is a positive thing and I agree with what my friend here said, that eventually we will find that Arab Americans are needed, first of all for the prosperity of this diverse country, and also for solving problems that we might face abroad. Thank you for listening.
DR. THOMAS: Good afternoon. My intent is to spend a few minutes highlighting some of the financial implications of the September 11th incidents. I think it is easiest to talk about the implications along three lines. The first is the timing of the incidents, the second is the actual direct financial implications of the incidents, and the third would be indirect implications of the incidents that arise from how we responded to them.

The timing is fairly important, because as you may know the economy had slowed considerably and we were approaching the trough of a normal business cycle. The monetary authorities had already taken appropriate steps to stimulate the economy. So we had a lot of stimulus already in place and the economy was beginning to land, beginning to heal, and that was about the time that the terrorist incidents struck. The timing was perfect if the incidents were designed to be financial terrorism.

Consider next the direct financial impacts of the incidents. The direct financial impacts of the incidents were small relative to the scale of our economy; probably less than even a rounding error in our ten-trillion-dollar economy. The direct impacts were the cost of the two buildings that collapsed, the monetized value of disruptions to air transportation, insurance-related costs and other similar costs. That is, the heartless aggregate of direct economic costs were fairly small relative to the scale of our economy.

What are more serious are the indirect financial effects attributable to the nature of our responses to the incidents. I want to spend some time expanding this point in further detail because I think these indirect effects are going to really affect us all in the long run. As far as the indirect impacts go, there was a set of responses. We had monetary policy responses wherein Alan Greenspan quickly increased the money supply and lowered interest rates, that is, he added even more stimulants into the picture. On the fiscal policy front, as of yesterday, it looks like we are adding roughly two hundred billion dollars worth of fiscal stimulus in the form of tax cuts, increased spending on defense, bailing out of airlines, the possible bailout of insurance firms and so on. And, there is also, of course, the rebuilding of New York’s buildings and the part of the Pentagon that was affected. Essentially, our responses are akin to applying the Powell Doctrine in a financial sense—overwhelm the economy with financial stimulus.

I would like to address a couple of fairly important points pertaining to these stimulants. It is critical that we think of these responses as being temporary in nature, and that we clarify the use of the word “war,” because financial systems do not work very well when you have large-scale wars. There is the temptation to spend too much money, and there is just too much government meddling that goes on during wars and it is very, very difficult to bring a war economy back to a normal trajectory. We are running the risk of having over stimulated the economy. We are very close
to overdosing on financial stimulants. These stimulants will mask the true trajectory of the economy and we will run the risk of not being able to diagnose the true state of the economy. It is extremely important that we as citizens not push the government into trying to fix this in the short run just by throwing money at it or we will all pay a very large price for what will look like policy errors in retrospect.

The word “war” – it is a shame that the word was used so quickly. Most money managers and economy watchers like myself dread the historical effects of wars. Wars come in many different flavors and the impacts on financial markets range along a very wide spectrum. There is a “World War II” flavor, a “Vietnam War” flavor, and an “Iraq/Grenada” flavor, in which the opponents don’t really fight back. As of now, it looks like the scale of military operations will be quite small, and if so, we can fight this war out of our budget surplus. That is, we have saved enough money to fight this war. And since the war is being waged around the trough of the business cycle, the economic activity associated with the war could actually help us clear out some of the excess inventory that caused the slowdown in the economy. These effects in addition to the two hundred billion dollars in fiscal stimulus that is planned will hit the economy soon. The impact of all this stimulus will be felt in 2002 and beyond. Two hundred billion is roughly 2% of GDP. That is an enormous number. We have not seen financial stimulation of this kind in many, many, decades. If you were impressed by the volatility we have experienced so far in the stock markets, wait till you see what 2002 and beyond have in store for us.

The danger of not treating our responses as temporary emergency responses is that that we will squander, what I would call, our share of the global peace dividend that we enjoyed through the decade of the nineties. Ever since the fall of the Berlin Wall, globalization has set in, and the United States has enjoyed the peace dividend disproportionately. There were two reasons. First, the money we would have otherwise spent on defense ended up going into the market system. The free market turned out to be very, very effective at parceling out the money into capitalism-induced advances in technology and biotechnology. The second reason is that we were in a position to use the peace dividend really well because our institutions of liberal democracy are compatible with the type of corporate and immigration laws that we have and with our culture of capitalism. So, our economic engine was cranked up and we just had a great time in the 1990’s. I would argue that our successes came as a result of globalization playing to our strengths. We enjoyed the benefits of mobility of labor and capital with very little government regulation or intervention. Capital went and found all the right ideas and financed them. The decade was a prosperous one for capitalists.

It is extremely important that we do not treat our responses to September 11th as the beginning of a permanent way of dealing with our finances. If we do mismanage our economy by treating all these changes as
permanent we will reenter past eras of regulation. The bailing out of airlines and insurance companies will just be the beginning. There is currently talk of all kinds of restrictions on cross-border wire transfers and international banking. The dollar will weaken considerably as a result. The US dollar enjoys considerable patronage by the wealthy of the world because it is a currency you can trust. The wealthy of the world park their wealth here and our banks enjoy the fees. The dollar is rendered strong and we all feel wealthier relative to the rest of the world. And there is a considerable amount of trust innate in the strength of the dollar. If this war turns out to be a large scale war, it will end up being deficit financed, and we run the risk of the dollar getting extremely weak. That is, if war related expenses turn out to be greater than the surplus that we are already working down through tax cuts, then we are going to have to issue new bonds, which means borrowing money from the public, which means interest rates will go up, and so on. That, in turn, will make business funding more expensive because the government will now be competing with businesses for money to fund the war. Once a financial system gets out of hand, it is just extremely difficult to turn it back. Financial systems are easier to stimulate than to calm down. Articles in the Wall Street Journal are already using phrases like, “Greenspan may be pushing on a string”. I do not think we have reached that point yet. The war is still fairly small in scale.

Ultimately, the reason why we are talking about all these issues is the globalization of commerce and the accompanying need for the globalization of laws and things like security. In such a world, you cannot separate finance from politics or finance from economics or finance from the law, because ultimately, we engage in commerce using corporate entities, which are just bundles of contracts. We have labor contracts with our employees, we have ownership contracts with equity holders, we have debt contracts with the guys who lend money to us and so on. All of these contracts—all of commerce—circulate around law and finance which cannot be torn apart. If such a global world is to operate well, we need to upgrade our basic institutions to be able to cope with all of these implications. We need new globalized institutions.

If I may digress a little; it is a real shame that we do not have a system to appropriately realize the presence of and scale of people’s grievances. I believe that it is time we had a new institution akin to the United Nations, but with a “lower” house to it, a place where not just nations gather, but also ethnic groups. This lower house might have to take the form of a court, but in any form it would be a place—a forum—where people can air their grievances in public. On the floor of the United Nations the atomic entity is the nation. I do not think that is sufficient any longer because in a globalized setting we are likely to evolve into clusters of people with common, homogenous motives. The motives may be cultural, they may be religious, or perhaps even financial. We need a place where people can
come and air their grievances. In my opinion large-scale terrorism occurs when serious grievances go awry.

In a globalized setting, actually in any setting, there is a cost to being wealthy that transcends national and cultural boundaries. If you are wealthy, you have to pay the cost of securing your wealth. One aspect of this cost is the literal cost of security. We incur this type of cost when we buy security systems for our homes. Another aspect of this cost is the cost of advertising the virtues of a democratized and capitalist way of life that resulted in the wealth. In a globalized setting, what that essentially translates to is education through investment and charity—or foreign aid or something similar. I prefer to call it charity, a voluntary act. One of the unfortunate things that has occurred in the US as we turned wealthy over the nineties is that we spend only about 0.1% of our GDP on financial assistance to the rest of the world, just 0.1%. Europeans spend three times that amount in percentage terms. When we, as individual citizens, get wealthy we spontaneously spend more than that proportion of our net worth on philanthropy. Al[bert J.] Weatherhead, [III] and [Frederick K.] Cox are good examples, and that is something we as a nation should also do. This philanthropy should be apolitical, it should be funneled through private charities, and it should be done on an ongoing basis. In a sense, it serves as PR, or advertising of our way of life. But unfortunately our antennae are out of touch with the rest of the world. For example, I have noticed that public schools in this country do not teach geography as a separate subject. It is actually quite amazing that the educational system of a global super power excludes the study of geography. You cannot have that in a world undergoing economic globalization. A lack of awareness of the rest of the world is fertile backdrop for grievances to go un-addressed. Here is another simple example: if you look at the titles of some of these forums, they usually say something like “9/11.” 9/11 to the rest of the world is the 9th of November, not the 11th of September. As wealthy as we are, we need to be more aware of the rest of the world, and we need a radar system that picks up grievances early and a radar system that can assess the scale of grievances—we have a wonderful capitalist system here that the rest of the world would benefit from greatly. We are just not advertising it well. Ultimately the sustainability of the quality of our lives depends on global commerce. Thank you for listening.

**MODERATOR:** Thank you. We’re going to go to questions right now. I think we’ll invite Sam to come in to give us a course on the metric system or something. Or perhaps consider him for our new slot in Public and International Law.

*(Question from audience):* I was really intrigued by what all of you said. But focusing on Dr. Thomas’s remarks on this idea of the cost to
being wealthy, there’s been a lot of talk about nation building as a part of this initiative to deal with the problem of world terrorism. And as you talked so learnedly about the financial system and the impact of the attack on the financial system, I’m wondering whether we can afford the cost of being wealthy, or we can afford things like nation-building in the context of the kinds of financial variables you discussed. Would that not change the lay of the land for the way that we think about finances? We’re really talking about re-distributive things here, it seems to me.

DR. THOMAS: Well, absolutely. But I would *not* use the word “re-distributive” in its socialist context, I would use it in a free-markets setting context. Yes, it will be expensive for us, but wars will be even more expensive; that is why we need to set up global institutions that will help in reducing these costs and in the sharing of these costs. What we are facing is a secular increase in the costs of doing normal business that arise from increased costs in security, increased costs in insurance, and the inability to do just-in-time type of inventorying that relies on air transportation (to get parts to the right places at the right time). Mobility of labor is hampered, and labor gets more expensive when you restrict immigration and require IDs, etc. Businesses can respond in two ways. One is to raise the prices of output to pass on the increased costs to consumers. That would cause inflation. We would all end up poorer in that case. The other is to address the core issue so that this ends up being a one-time spike in cost that will go down once we address the real causes. Unfortunately, this is a hard set of costs to address easily because the impulsive reaction to terrorism is to smash these guys (the terrorists) through wars, and to spend lots of money to crank up the economy. We are going to have to be extremely disciplined to keep it in that perspective, that our responses are temporary crisis-related responses; we have got to pull back once the crisis is over and begin to address the real causes. Otherwise we will face a decline in commerce due to increased costs and distrust when the economy returns to its normal mode.

*(Question continued):* So you think that this is all doable within the context of capitalism as we know it and practice it?

DR. THOMAS: Oh, that is what is elegant about the market system, right? It is intrinsically re-distributive in a voluntary sense. The elegance of the market system lies in the fact that it causes us to spontaneously spend money on things that look good, are useful, or cut costs. The outcome does not rely on the unrealistically high level of competence that would be needed in a government to achieve the same degree of efficacy. The collective wisdom of the market is used in the re-allocation of resources. I would argue that our market and our banking system should be treated like
national treasures. We should not be messing with them at all by imposing regulatory constraints on wire-transfers, etc.

We are essentially incurring the cost for not having been smart enough to foresee globalization's natural side effects. By "we" I mean the global community of elders. We did not look forward enough to see the importance of taking care of foreign grievances that my colleague next to me very nicely articulated. Even though it is easy to ignore what is going on elsewhere, those grievances may be real. If you allow grievances to grow, the aggrieved will get desperate and they will do desperate things. When they have all that emotion, and the weight of history and religion on their side, they can do all kinds of unpredictable things. Here, we look to the richest guy as being the guy—abroad the richest guy is usually a crook, the elders there are the holy guys, the priests. Under these circumstances, grievances supported by religious elders abroad have to be taken seriously.

I think it is a mistake for us not to fund world bodies like the United Nations just because we do not like the governance structure or the design; we should change the design, but we should not kill these forums. For example, at the last session, somebody mentioned that the US was the reason why the world court did not come about. I am not well schooled in the law, but if that is true that is appalling. The initial grievances that led to the September 11th incidents could have been addressed in a world court and perhaps even settled there before they turned extreme. Even the incidents could have been discussed there and addressed in a multilateral manner, (without our actions reeking of heavy-handed foreign policy). We are a very fair nation. We are well meaning, we are rich and we are generous. It is very nice here, we should be exporting these attributes.

(Question from audience): Professor Thomas just touched upon something I was really interested in and that was the whole idea of the International Criminal Court and this being the perfect venue to sort of try or assess the criminality of Osama Bin Laden and the Al-Qaeda group. But what I was thinking is that throughout this past month a lot of us have heard that the word Islam comes from the word peace. That's very, very true, but something that hasn’t been exposed also is that their prerequisite for peace is justice. It's disconcerting for many people around this world, not Muslims alone, but many people, that justice is not being served. Islam says that an enemy or a criminal cannot be tried [by] the person against whom he has committed the crime because that is unfair. So Afghanistan says they would like to try Osama Bin Laden, and the US has obviously refused that right. Do you think it's open to anybody, or that this is something that could be tried in the International Criminal Court? If so, what would be the reaction of the US or other countries, other Arab nations, or Afghanistan?
DR. THOMAS: I know you initially addressed your question to me, but a comprehensive answer would lie outside the domain of my competence. I am not a legal expert, so it would be very difficult for me to outline what some of those issues might be. So, if there is somebody in the audience who is a lawyer ..............

(Question from audience): Yes, I would like to ask Professor Gup what he thinks of the coverage on the TV networks and the other members of the mainstream media have given to the events of September 11th and after. Some progressive critics have accused the mainstream media of being overly patriotic, even war-mongering.

MR. GUP: That's a very good question. I don't want to duck it but I also don't want to oversimplify it. I've always hated the word "media". I think it's utter BS. I don't understand what media means. There are newspapers, there's radio, there's television, and each of them is distinctive within the rubric of media. And within each of those there's wide divergence. Within newspapers, are you talking about the National Enquirer, or are you talking about the New York Times? Within television, are we talking about Fox or are we talking about CBS? So, I could reach and grab a broad brush, but I want to resist that because I think it's meaningless.

It's always easy to make declarative statements of great import without reference to individual cases. And it's usually wanting in validity. So let me just address what I think are the premier outlets and how they've behaved. I think that they've behaved quite well. There have been some times when I've winced. For example, at one point in an interview on a late night program, Dan Rather said, "Basically all Bush has to do is tell me where to stand and I'll line up." Now I actually like Dan Rather, and have had a very attenuated series of contacts with him over the years. I like and admire him; he's a man of very good principle and spirit. But he and I would part ways with what he said. I'll never say that and I hope none of my brethren in the field say that. We don't line up for the President ever. I heard another person, a very esteemed anchor, talking to Rudy Giuliani. He said "Mr. Mayor, let me take my journalistic hat off for just a moment and say, you've done a fabulous job and we all admire you. Are you going to run again?" You don't take the hat off, it stays on. I think that we just ill serve ourselves and our credibility whenever we take the hat off no matter how well intentioned in whatever direction. The hat stays on.

I think on the whole I've not seen a lot of jingoism in the news. There [has] been no celebrations of the bombing of Kabul that I've seen. Nor on shipboard where the crew's missiles are being launched. This is a pretty damn sober war by all accounts. There's no jubilation that I can sense. I got an e-mail from an editor at a prestigious publication on Saturday, which is the day before the war broke out, which disturbed me. And it said, "I'm
not ashamed to admit that so far, it’s been a wonderful war. I’m flooded with good offerings.” In other words, he’s getting lots of thoughtful things. Well, this—to his defense, the war hadn’t started. There’s only been one blow and that was against us, so to speak. But it’s not been a wonderful war at any point. It never will be a wonderful war. War never is wonderful. I think most of my brethren and sisters in the field understand that, and they’ve behaved fairly well.

The questions are going to become more serious when the body bags start coming home. When the coalitions and the seams start to come apart. When there are subsequent attacks within the Continental United States. That’s where the test will come as to what is dissent, what is disloyalty, what is analysis, what is criticism? But if you go down the ranks to the lowest common denominator practitioners in the field, I would change the criteria, and I apologize for such a lengthy response.

MODERATOR: We’ll take one more question.

(Question from audience): Mr. Islambouli, I liked the things you said and I have a question about the way we’re dealing so much outwardly, and we’re not dealing inwardly. That’s one of the reasons, I think, for what happened on the 11th. We weren’t dealing inwardly with security. We’ve been dealing so much outwardly. My question came up from something Peter Jennings said the other night, that the DOJ is keeping wraps on all of the attacks against Arab Americans in this country. Certainly, you don’t hear about such attacks on the news, but you do hear about what we’re doing outwardly. And you’re not hearing what we’re doing inwardly to help the tensions that have obviously arisen among people, that you’re going to have to deal with when more attacks start on this country because we’re all Americans. Do you have any thoughts on this?

MR. ISLAMBOULI: Thank you for the question. Actually, one thing that really disturbs me is the problems inside our society towards Arabs or Muslims, American Muslims or Arabs. Excuse me if I use the media again, but I recall a couple of days when [a channel]—I forget what channel—broadcast the assistant of Bin Laden threatening that there would be more attacks on the United States. There was someone translating—I think he was an employee with one of these media groups and he knows Arabic. And the commentator who was showing this footage said: “Can you believe these people? They speak English so fluently and they live with us, inside our cities and around us.” It was just a dumb statement because this was just an interpreter who was translating what this guy was saying. But this kind of statement will lead people [to] think, “Oh, he speaks English very well.” Well, of course he speaks English very well,
he's an interpreter. But really, that level of misperception is very dangerous.

On the other hand, just to be fair here, the Arab Muslims, or Muslim Americans or Arab Americans in previous problems like the Gulf War or the first bombing of the World Trade Center, this time we had more incidents, but to be honest, we had a lot of support. People, it's the first time, like our Mosques received people who are calling and giving support and seeing that what's really happening is not fair, targeting people because they have nothing, just because of the color of their skin and what religion they believe in. And even we had some Christians who were even helping with the security of the Mosque. So this was a very positive note and I wanted to acknowledge that.

MR. GUP: This is just an anecdote that has no meaning beyond my life, but when I came to Cleveland two years ago, I moved into a home where the neighbors on both sides of us were Iranian-American. One was first generation, the other was second generation. Catty corner was a family from India. My sons are both adopted from Korea. I thought, “well, this is a great American street.” When September 11th happened it was right in the heart of a religious period, Rosh Hashanah and Yom Kippur. The first thing that I did was to go to the rabbi and say, “let’s invite the Imam and his congregation to join us for an evening, to exchange views and get to know each other.” That was two days before the ten-year-old tape came out of the Imam’s remarks that were hostile to Israel. When that happened, I went in to talk to the rabbi and said, “I’d still like to invite him, in fact, maybe more so, because, what good does it do to invite friends? You’re already friends, right? Let’s invite the people who don’t share your view.” But that view wasn’t shared.

A couple days later I was at a football game. My sons are in the fifth and sixth grade; they play on football team along with our neighbors who are second generation Iranian-American. The youngest boys, my son and her son, alternate as water boys. They are a little small to play. The older boys both play on the line in defense, blocking, going against the run. And I was thinking, you know, the simplicity of a late Saturday night game under the lights, fifth and sixth graders playing together, completely ignorant of any enmity, distrust or hostility between them. That’s the way I wanted to remember it. It gave me a little solace and a little salve to the wound of that week which was marked by a lot of disappointment.

MODERATOR: I can’t think of a more wonderful way to close this session. To amplify Ted’s introductory statement and also his last statement, true expertise starts with the recognition of what we don’t know. I’m very happy that all of you have come over to be a part of that recognition. And in response to his last statement, it seems to me that just
being together to raise and discuss issues in this kind of format is exactly what we should be doing as a university.