Terrorism raises two important issues in trust. First, obviously, is the problem of how terrorists can cooperate in extraordinary actions that put themselves at great risk. Second is the problem of how a society—even one with standard liberal protections of civil liberties—can avoid becoming the object of the pervasive distrust of those subcommunities, domestic and foreign, from which terrorists might come. The two problems interact in that the devices for securing cooperative commitments among potential terrorists run counter to the plausible visions of society that include strong protections of civil liberties. In these visions, civil liberties are needed to protect individuals from abuse by the state at various levels of government. It is through its justice system, not through protections of civil liberties, that the state must protect individuals from one another.

In the United States, the second of these problems is especially acute because of the long history of slavery based on race and the resultant racism that has pervaded both laws and mores. Just because there is a severe problem of racism in the United States, protections of civil liberties must be universalized to cover everyone, and the actual language of civil liberties is universalistic. To put African Americans under surveillance or to arrest and search them far more often, proportionately, than whites, especially in cities in which police forces are dominated by whites, is bound to exacerbate racism. Indeed, discrimination by officials and by ordinary citizens may exacerbate the problem of subcommunal organization that enables intracommunal cooperation in hostility toward the dominant social group.
whom has certain identifying characteristics of an American and the
other of whom has foreign characteristics, she might deal with them
very differently. In particular, she might more readily take the risk of
relying on the first and be somewhat more wary of relying on the sec-
ond for some minor matter.

If the other person has a heavy accent and Middle Eastern facial fea-
tures, she might be only slightly more wary of that person than of the
first person in dealing with some minor matter of the moment. But she
might be extremely wary of the group from which the second person
comes. She might therefore even want quite different policies for deal-
ing with the different groups from which these two “anonymous”
strangers come. We know from varied contexts that people can have a
more positive view of individuals from a group than they have of the
group. Many Americans, for example, nearly revile government bureau-
crats as a class, even though they often think well of all the bureaucrats
with whom they have had any dealings (Klein 1994). There must be
many Americans who have trusted Arab American associates but who
generally distrust Arabs as a group.

The Epistemology of Close Communities

How do terrorists who are embedded in a foreign society cooperate?
Cooperative communal ties are organized in two substantially different
ways (Cook and Hardin 2001; Fischer 1982). First, small, close communi-
ties tend to be governed by general norms of cooperativeness, norms
whose requirements can be vague and ill defined and can be subject-
ively asserted by members of the community. The norms can require
different things of different people, depending on their likely capacities.
For example, if your family suffers some hardship, your neighbors
might do distinctively different things to help you get through the hard
time. Some of us might cook for you, others might take care of your chil-
dren when needed, and so forth. Second, in more complex settings, such
as urban areas, many relationships are organized through networks that
are relatively specifically concerned with particular kinds of cooperation
or cooperation on particular kinds of issues.

Norms of communal cooperation are effective only to the extent that
members of a group or community want to continue as members. In this
respect, such norms, although vague in their range, are similar to trust
as encapsulated interest. Such trust generally depends on the trustwor-
thinness induced by the desire to maintain the relationship. Network
organization of cooperation can be governed by overlapping dyadic
encapsulated-interest trust relationships and by reputational effects that
are a proxy for such trust relationships. Hence such trust relations are a
substitute for traditional communal norms for contexts in which the
norms would no longer work because the web of dense interactions that
both defines and enforces the norms is absent. When cooperation is
organized by communal norms, it can become highly exclusionary, so
that only members of the community can have cooperative relations
with those in the community. In such a case, the norms of cooperativeness
are norms of exclusion (Hardin 1995, chap. 4).

For many fundamentalist groups, continued loyalty to the group
and its beliefs is secured by isolating the group and its members from
many other influences, so that relations within the community are gov-
erned by extensive norms of exclusion. When this happens, it is not
only trust relations but also basic beliefs that are constrained. If I
encounter no one with contrary beliefs, my own beliefs will tend to pre-
vail by inertia and lack of questioning. There are many strong, extreme
beliefs about religious issues as well as about lots of other things. Many
of these views have to be wrong for the simple reasons that they differ
from one another and that each denies the truth of the others. The two
matters for which such staunch loyalty to unquestioned beliefs are
politically most important are probably religious and nationalist com-
mitments (see Hardin 1997, 2001). Such beliefs are often maintained by
blocking alternative views and by sanctioning those within the group
who stray.

Consider a very peaceful group, the devoutly religious Amish, who
live mostly in the Midwest of the United States and into Canada. The
Amish are not hostile to others but merely want to continue in their own
ways (this is evidently true at least for older adults), and they are very
nearly apolitical. The old-order Amish of Wisconsin have long striven
to protect their children against corruption of their beliefs by taking
them out of school at the age of fourteen. Wisconsin law requires edu-
cation through the age of sixteen, and Wisconsin officials attempted to
force Amish children to continue in school by fining parents who took
their children out of school early. (The fines were not large.) In a famous
Supreme Court case (Wisconsin v. Yoder et al., 406 U.S. 205–49), Amish
leaders won the right to stop public education of their children at the age
of fourteen. The Amish and the Supreme Court opinion both argued
that further education was likely to corrupt Amish children’s beliefs.
They therefore concluded that the constitutional separation of church
and state meant that Amish children could not be forced to expose their
beliefs to such severe tests (also see Hardin 1995, 201–3).

It is widely supposed that such narrow views cannot readily be sus-
tained by many people if they are constantly exposed to different views.
Often, the reason people alter their views about ordinary matters is that
they experience things that run counter to their beliefs or they deal with
people who question their beliefs. Indeed, this was the forcefully arti-
culated view of Amish leaders in Wisconsin. They well understood that
keeping their children away from the broader American culture was virtually essential to keeping them in the faith.

Even more forcefully, the English philosopher G. E. M. Anscombe (1981) says that unless children are taught some of the more incredible articles of Catholic faith at a very early age, they will have a hard time ever coming to believe them. Only someone gifted with a child’s magical thinking can accept, for example, the story of transubstantiation, by which an ordinary wafer becomes the flesh of Christ and a sip of ordinary wine becomes the blood of Christ (Anscombe’s own example). Tell this to an adult who has not previously heard of it, and you are likely to be met with astonished incredulity that anyone could possibly hold such a belief. Once taught at an early enough age, however, a person might survive adult reasoning without loss of the seemingly implausible belief. Someone intimidated by the invocation of the cross throughout childhood might still be motivated by its image in later life, even after giving up many of the beliefs associated with the meaning of that cross. The mere symbol of the cross can seemingly chastise and energize people.

Extremist and fundamentalist groups are often able to block such corrective devices as come from interactions in the larger society. Some of the terrorism on the ground in the Middle East seems to fit easily with the usual view that isolation is important in strengthening and sustaining extremist beliefs. Terrorist training commonly takes place in isolated camps, such as those of al Qaida, in which there is no contrary view and every individual is constantly reinforced in the group’s belief system. There might be few broader social influences that are discussed or that can survive in the face of constant hortatory indoctrination as well as fairly substantial deprivation of kinds of social interaction that most people enjoy (see, for example, Barbara Crossette, “Living in a World without Women,” New York Times, November 4, 2001, sec. 4, p. 1).

All of this works because most of what anyone knows comes from hearsay, from such “experts” as a neighborhood gossip, a newspaper, or, in exceptional cases, an encyclopedia or other authoritative source. What isolation from other influences does is give us a crippled epistemology. We are unable to come to know many things, and we have no reason to reconsider the things we think we know.

On this account, maintenance of extremist beliefs depends on embedding the believers in a closed community. It need not be entirely closed, just mostly. For example, an Amish farmer might know several non-Amish with whom he deals commercially. But he does not immerse himself in their communal life, and he knows little of it. Members of the extremist militias of Idaho, Michigan, Montana, and Wyoming are very isolated from other influences. Their friends are other militia members. The Unabomber led the life of a nearly complete loner; he evidently had no further influences on his beliefs beyond the things he chose to read. But he was a loner in the further sense that he was not part of a larger, more threatening movement of terrorists who might wreak far greater harm than any ordinarily equipped loner.

Our embeddedness in an exclusive community can both enable and constrain us. It enables us to rely on fellow group members in ways and to a degree that would be implausible in the larger society outside our community. There is a bit of truth in the chief normative claim of communitarianism, which is that community can be very supportive of us and make daily life more congenial and comfortable and is therefore in some sense good for us. It offers us the epistemological comforts of home (Hardin 1995, 55, 77, 89–90). Another bit of truth in communitarianism, which, however, has negative implications, is that community can suppress us and keep us in line in ways that make little sense except that they are the ways of the community. Communities can destroy individuals and their lives. Communitarian philosophers in our time see the good side of community as overwhelmingly, even definitively, good, and they are virtually blind to the potentially harmful side of it (Hardin 1995, chap. 7). There is a brutal and unavoidable conflict inherent in the idea of exclusionary communities in which adults secure their own values by constraining their children’s future values.

Narrowing one’s associations to others in an isolated extremist group cripples one’s epistemology by blocking out general questioning of the group’s beliefs (Hardin 2001). To an outsider, those beliefs might be utterly crazy, as Anscombe (1981) grants for her own Catholic beliefs. Indeed, virtually all strong religious beliefs sound crazy or silly to those who do not share them. Committed believers in each of the three major monotheistic religions spawned in the Middle East hold views that exclude the possibility that the other two sets of religious beliefs could be true. Christianity and Islam are proselytizing religions, and they have come into mortal conflict therefore. Stringent versions of Islam and Judaism require religious control over civic life and, because they both hold the land that is now Israel as holy, they come into mortal conflict. Indeed, insofar as Western ideas influence secular politics in Islamic societies, stringent versions of Islam are in conflict with purveyors of such secular politics, including the West—especially the Anglo-Saxon West, which has not merely purveyed ideas but has even installed and supported secular regimes in the Middle East.

Social scientists and historians might explain the prevalence of certain religious beliefs, but their explanations are likely to render the content of the beliefs contingent on historical accidents rather than on theological truths. Although the truth of their beliefs surely matters to those who are deeply religious, they do not seem to think that their beliefs need to be shown to be true; they simply know them to be true.
True believers are not typically scientifically interested in how they got their beliefs.

Generalized Trust, Generalized Distrust

There is a fairly extensive literature on so-called generalized trust, that is, trust in the anonymous or general other person, including strangers, whom we might encounter, perhaps with some restrictions on what issues would come under that trust. (This discussion draws on Hardin 2002.) Evidence for such generalized trust comes primarily from three standard survey questions in the General Social Survey. One of these is, “Generally speaking, would you say that most people can be trusted, or that you can’t be too careful dealing with people?” People commonly answer that most people can be trusted; or, on a multilevel scale, they choose a relatively high level of confidence in others’ trustworthiness. It is also easy to read such responses very loosely. If I say I can trust most people most of the time, I may merely be saying I trust most of those I do actually deal with most of the time. Of course, that is partly why I deal with them and not lots of other people whom I would not trust most of the time (I might actively distrust some of them and be agnostic about others).

In principle, however, the idea of generalized trust has two odd features. First, it sounds more nearly like an account of simple expectations than an account of trust. In this account, I supposedly think everyone is reliable to some degree, independently of who they are or what relationship I have with them. I think this of them the way I might think the typical person would behave in certain ways in various contexts. This sounds more like optimism about the cooperativeness of my fellows than trust in them. Moreover, at best, such optimism is likely to be about specific kinds of people, so that it depends on stereotyping. I therefore call it group-generalized trust.

Second, when survey respondents say they trust most people most of the time, this is almost surely an elliptical claim. They do not mean that, if a random stranger on the street were to ask for a loan of, say, a hundred dollars, they would trust that person to repay and would therefore make the loan. Hence even this open-ended answer to a badly framed, vague question is almost certainly just a loose way of saying they would trust most people within somewhat narrow limits. Moreover, it is also elliptical in its reference to “most people.” Few of the respondents would genuinely trust just anyone much at all. Even if I trust most of those I deal with most of the time, that is because most of the time there is little at stake in my dealings with them—I would not trust many of them for very high stakes. My trust is of you to do X, and making X a large matter can drastically affect whether I would trust you.

The survey results cannot be read to show that there is genuinely generalized trust. The respondents are forced by the vagueness of the questions to give vague answers, and it is a misdescription to label their responses as generalized trust. In Julian Rotter’s (1967) interpersonal trust scale, discussed in chapter 1 of this volume, there is no room for a category of generalized trust, even in his psychological view that some people are inherently more trusting than others. That his scale divides into three independent factors suggests, indeed, that trust must vary according to the stereotypical character of the potential objects of trust, whether they are, for example, parents, professionals, politicians, or strangers (Wright and Tedeschi 1975). It would not be hard to frame survey questions that would allow us to multiply these categories.

At best, in any case, generalized trust must be a matter of relatively positive expectations of the trustworthiness, cooperativeness, or helpfulness of others. It is the stance of, for example, the child who has grown up in a benign environment in which virtually everyone has always been trustworthy. That former child now faces others with relatively positive expectations by inductive generalization (see Hardin 2002, chap. 5). The value of quasi-generalized trust is the value of such an upbringing: It gives us the sense of running little risk in cooperating with others, so that we may more readily enter into relationships with them. Of course, such generalized optimism is a value only if others are relatively trustworthy.

Why speak of generalized trust? In any real-world context, I trust some more than others, and I trust any given person more about some things than about others and more in some contexts than in others. I may be more optimistic in my expectations of others’ trustworthiness on first encounters than you are, but apart from such a general fact I do not have generalized trust. I might also typcast many people and suppose some of the types are likely to be trustworthy enough to justify the risk of cooperating with them, other types less so, and still others not at all. However, this is far short of generalized trust. It is merely optimism about certain others. Such optimism from typcasting makes rational sense, just as typcasting of those whom one might employ makes rational sense as a first, crude indicator of competence or commitment. This is the rationale in Gary Becker’s (1971) analysis of discrimination in hiring.

Many, maybe even most, claims for generalized trust can readily be restated as claims that, in contexts in which trust generally pays off, it makes sense to risk entering into exchanges even with those whom one cannot claim to trust in the encapsulated-interest sense—because one does not yet have ongoing relationships with them nor does one have reasons of reputation to trust them. This is not a claim that one trusts those others but only that one has relatively optimistic expectations of being able to build successful relationships with certain,
perhaps numerous, others (although surely not with just anyone). Hence generalized trust seems likely to be nothing more than an optimistic assessment of trustworthiness and a willingness therefore to take small risks on dealing with others whom one does not yet know. That assessment would be corrected if the optimism proved to be unwarranted because people and agencies in the relevant context proved not to be generally trustworthy.

Whereas generalized trust or group-generalized trust makes little or no sense (other than as a claim of optimism), group-generalized distrust in many contexts makes very good sense. If I am Jewish, Gypsy, or gay, I have good reason to distrust all officers of the Nazi state and probably most citizens in Nazi Germany as well. American Indians of the western plains had very good reason to distrust whites. During Slobodan Milosevic's wars and pogroms, Serbs, Croatians, and Muslims in what was then Yugoslavia had increasingly good reasons to distrust most members of the other groups, especially while the latter were acting as groups. Blacks in the United States have long had good reason to distrust white police officers, not only in the South but in many northern cities as well. In all of these cases, distrust is defined by the belief that members of the other groups and their representatives are hostile to one's interests. Trust relationships between members of these various groups are the unusual cases that require explanation; the relatively group-generalized distrust is easy to understand and justify. In all of these particular cases, the proportion of those from another group who were not to be trusted was generally quite large—or, in the Yugoslav case, it became quite large very quickly after various atrocities and brutalities.

Consider just one of these archetypal cases. In the American South during the days of Jim Crow segregation laws and practices, white police forces and courts intimidated and harassed blacks. Ordinary white citizens often were also abusive and scornful toward blacks. But frequent lynchings must have had an especially detrimental effect on race relations and on the prospects for interracial trust. From 1883 to 1960, the awful era of lynching in the United States, an estimated 4,742 blacks died at the hands of lynch mobs. That is far more than the number of people killed and even seriously injured in all the terrorist attacks on Israel or in the attacks of 11 September in the United States. A recent book displays photographs of uncounted whites—numbering into the thousands at single events—celebrating or merely spectating at these lynchings (Allen et al. 2000; see also McMurtry 2000). Some of the photographs derive from postcards that were made and sold at the events and then mailed to others. One of these postcards, plate 26, pictures a crowd around the charred remains of Jesse Washington, who was lynched in Waco, Texas, in 1916. The postcard is inscribed, "This is the barbecue we had last night my picture is to the left with a cross over it your son Joe." In the face of such events, generalized distrust of whites by blacks must have been pervasive—and perhaps still is.

In the current circumstances of mostly Arab and Islamic terrorism against Israel and the West, it is surely a tiny fraction of all Arabs and Islamists who are genuinely a threat, but the scale of their threat may make many Israelis and Westerners wary of virtually all Arabs and Islamists, because what bothers them is roughly the product of the likelihood of doing harm and the scale of the harm that is likely. Moreover, many who are not prospects for taking terrorist action evidently sympathize with and even support those actions (see, for example, Lynsey Addario, "Jihad's Women," New York Times Magazine, October 21, 2001, pp. 38–41). In current conditions, Arabs are more likely than, say, Africans or Chinese to be terrorists against Westerners.

On the encapsulated-interest theory of trust, I cannot trust the members of a circumscribed community and they cannot trust me, because we are not involved in ongoing relationships that we could sustain to our benefit. We might distrust each other, but we could not trust each other. Mere statistical doubt in the likely trustworthiness of the members of some identifiable group can be sufficient to induce distrust of all members of the group with whom one has no personal relationship on which to have established trust. Such distrust would be group-generalized distrust. This statistical doubt can trump relational considerations and can block the initial risk taking that might allow for a test of another individual's trustworthiness by stereotyping that individual as primarily a member of some group. If there are many people with whom one can have a particular beneficial interaction, narrowing the set by excluding certain stereotypes is efficient, and we commonly do such things in many contexts.

Unfortunately, however, systematically excluding on the basis of ethnicity or race becomes pervasively destructive of community relations. If my group has statistical grounds for doubting the motivations of many members of your group and hence for generally distrusting your group, my group's behavior is apt to give your group grounds for distrust of us. Distrust feeds distrust. Perhaps, in a cruel reverse, distrust begets untrustworthiness that ex post might be seen to justify the distrust, whereas trustworthiness begets trust that is justified by the trustworthiness (Hardin 2002, chap. 2).

Moreover, trust and distrust are likely to be asymmetric. A single betrayal may typically be enough to establish distrust, whereas a string of successful instances of cooperation may be required to develop trust. Moreover, once distrust is established it may take overwhelming counterevidence to induce trust again, whereas it may take no more than a single betrayal to wreck an ongoing trust relationship. This asymmetry
is familiar from our experience with reputations. A good reputation can be wrecked easily, but a bad one is very hard to overcome (Good 1988, 43; Hardin 2002, chap. 4). Responses to terrorist actions that generally attack a minority group, such as Arab Americans, may therefore set relations back substantially and encourage the establishment of group-generalized distrust.

**Terrorist Communities**

Terrorist communities seem likely to be merely special cases of exclusionary groups more generally. They are, of course, special in their purposes, but they may also be special in the small size of their face-to-face communities. Terrorism that is well organized, as opposed to the anarchically, individually motivated terrorism of the Unabomber, poses a potentially grievous problem. Terrorists, almost by definition, seem to identify strongly with a particular community and see some other community as hostile to their own community’s prospects. For that reason, they are likely to find it natural to live in exclusionary groups. Therefore, there is likely to be little evidence of their role in the society they wish to attack.

An astonishing fact about the Unabomber is that he was evidently able to sustain his views and his energies while living as a loner. Already, that suggests problematic sanity. The terrorists who attacked the World Trade Center and the Pentagon seemingly lived in very small communities of sometimes only two people. In some ways, the Internet allows individuals and small groups to be quite isolated while nevertheless maintaining substantial contact with others of like mind. Islamic terrorists in the West can be almost completely isolated individually while maintaining nearly instant, frequent contact with one another and with groups in the Middle East, Pakistan, or, formerly, Afghanistan.

Immigrants who join an extant subcommunity of fellow nationals are likely to be integrated into a stable set of values and commitments and are likely to find that their interests depend in large part on building and maintaining good relations within that community. They are likely to experience an analogue of what sociologists in the Marxist tradition call embourgeoisement. When workers begin to partake of the pleasures of the bourgeoisie—owning houses and cars and having their children educated—they tend to adopt bourgeois values and become conservatively concerned with maintaining and maybe advancing their status within the system (Goldthorpe et al. 1969). Then they cease to be revolutionary, and, indeed, they may even cease to vote for workers’ parties in democratic elections. Part of the life of the “sleepers”—dedicated terrorists living in the country they plan eventually to attack in some way—is to avoid any analogue of embourgeoisement by avoiding the development of rich ties to others in the society in which they await their day of violence. Rich relationships in the larger society might block the prospect of ever adopting terrorist commitments for those not already part of a terrorist group.

**Civil Liberties**

In the historical development of liberal theory from Thomas Hobbes to our time, order is prior to all else. This was true for Hobbes (1651/1968) because he thought that the choice citizens faced was one between anarchic chaos and rigidly controlled order. It is implausible that Western democracies risk falling into radical internal disorder of the kind that disrupted Hobbes’s world in seventeenth-century England. The behavior of ordinary citizens and politicians in highly developed democracies suggests that they have little or no fear that they are threatened with the chaotic disorder that Hobbes thought justified an all-powerful state. Indeed, we are the inheritors of a tradition of opposing state power insofar as it is directed against citizens. Because we have mastered the problem of internal order that worried Hobbes, we can give our attention to other issues, including, dramatically, civil liberties that protect us not from one another (the job of the state) but from the state itself, to keep it from overstepping its bounds while protecting us from one another. There might be some risk of Hobbesian disorder from external terrorism, although even this seems unlikely in any developed democracy other than, perhaps, Israel. Israel might face such a risk because the proportionate scale of terrorism that it faces is far greater than that faced by any other democratic nation.

In the face of contemporary terror on a dramatic scale, it would be a mistake to assert the priority of civil liberties over every other concern in principle. Clearly, Hobbes’s concern with survival comes first. Without basic survival, civil liberties have no meaning. The basic achievement of social order is essentially a coordination problem, not a problem of deep conflict or of shared values, as various theorists have surmised. Once we are coordinated on a system of order, few citizens would put that order at risk as the price of achieving any particular policy. Only a deeply conflictual issue, such as slavery in the United States before the Civil War or divisive class conflict, is likely to justify, for many people, putting order at grave risk (Hardin 1999, 9–12).

In the face of threats from hostile exclusionary groups that solidify their beliefs through isolation and thereby engender potentially deep distrust, it is not psychologically reasonable to expect people actually to believe that the full program of civil liberties that protect citizens should be invoked on behalf of members of a potentially terrorist group. Because
the language of such protections is overwhelmingly universalistic, many citizens quoted in the recent American press and many of those with whom I speak, especially students in my classes on law and morality, democracy, and nationalism, find themselves being inconsistent in arguing both for the maintenance of civil liberties and for the strong surveillance of Arabs in the United States and restrictions on their travel or immigration to the United States. If the vocabulary of civil liberties distinguished between citizens and noncitizens, who might be seen as in limbo while establishing the credentials for deserving citizenship, it might be easy for these same people to defend civil liberties for citizens without wavering while demanding different treatment of noncitizens. The painfully tainted history of race relations in the United States makes it difficult to treat groups differently in the law. The law must be universal. This history therefore probably makes it difficult even to treat noncitizens differently from citizens in many respects.

Indeed, for most of a century, civil liberties law in the United States has largely been defined by the group-level conflict of racism, especially in the criminal law, laws regulating state provisions of various benefits such as education, and in some categories of regulatory law governing travel, real estate, and other housing. There have also been issues of political liberties in the heyday of anticommunism and in the era of anarchism in the early twentieth century and with respect to ethnic groups during the two world wars, when Americans of German and later of Japanese and Italian descent were subjected to abusive surveillance and even internment. But year to year for many decades, much of civil liberties law has been about protection of blacks accused of or under trial for crimes of various kinds and blacks abused by various government officials. Many of the resultant civil liberties doctrines might never have arisen except for the abuses of racism on the part of officials of various governments, local, state, and federal.

The original Bill of Rights addresses abuses—especially those perpetrated by the English crown against its own citizens at home and in the colonies—in the period before the enumeration of rights of citizenship under the U.S. Constitution. Nations that adopt new constitutions today typically put rights protections first, rather than appending them at the end as an afterthought. But they would not include some of the protections dear to the generation of James Madison because they have no recent history of relevant abuses, such as the stationing of government troops in private homes.

One way to avoid group discrimination is through surveillance that discovers and then monitors particular individuals because of their suspect activities. It is frequently remarked that the United States suffered a major failure of intelligence gathering before September 11, 2001. The implication is usually that the Central Intelligence Agency failed to monitor plans abroad. But there was also arguably a failure of domestic intelligence. That massive failure raises a hard question: Do Americans want the kind of surveillance that we once had under J. Edgar Hoover's Federal Bureau of Investigation? Hoover used the power of the FBI to go after groups that he thought were anti-American, including civil rights activists, civil libertarians, and anti-Vietnam War activists. In his time, everyone who participated in even the most peaceful civil rights or antiwar activities was photographed repeatedly; the photos were shown to informants to identify the people; and files were amassed on all so-called activists. The files on the terrorists who bombed southern black churches were reputedly far less extensive.

Hoover was a thoroughly indecent man with gross power who blackmailed public officials to keep himself in power far beyond retirement age. One can imagine a version of the FBI that could do surveillance but would focus only on genuinely hostile groups and individuals. But we cannot easily guarantee that such an FBI would not also abuse its powers while maybe failing to find and watch terrorists. Democratic control of government works through openness and oversight. A surveillance organization cannot be open or openly overseen, and there is no way to guarantee that it will act only on its mandate. It is difficult to square civil liberties with pervasive secrecy in governmental proceedings.

Depending on what kind of people the terrorists are, there are several distinct problems in controlling terrorism: the production of terrorists in Libya, Afghanistan, Pakistan, Montana, and other places (many of whom were trained in their necessary skills, although not likely their beliefs, by the American Central Intelligence Agency, in Pakistan, and the American military, in Vietnam); their entry into the United States; and their communal maintenance in the United States. The first of these is largely a matter of foreign policy and is not particularly germane to the problem of civil liberties in a nation that the terrorists might target. (Part of U.S. foreign policy is to encourage and even demand that other nations protect civil liberties—or human rights. One might expect the current administration to relax such demands in favor of strenuous action against presumed terrorists.) The second is a problem of differentiating between those who come into the society either as ordinary visitors or potential immigrants and those who come for hostile purposes. The third is probably the one that most requires something like FBI surveillance and that therefore implicates civil liberties.

Again, the main purpose of protecting civil liberties is to block state action against individuals. The problem we face with terrorists is more nearly the problem that Hobbes supposed is fundamental for social
order: protecting each of us against the others. Until we have social order and such protections of our safety, we are not likely to be concerned with civil liberties because such liberties could not even be defined absent a state as their target. Hobbes could be considered foundational for modern liberal theory, which developed further through the writings of John Locke, David Hume, and Adam Smith and which, in a sense, culminated in the work of James Madison in creating the U.S. Constitution. Although Madison saw that constitution as an embodiment of liberal protections of individuals, many of his contemporaries wanted such protections to be made explicit in amendments that make up the Bill of Rights. These amendments were added to the Constitution a few years after its ratification. Already at the time of that constitution, Americans had achieved such a successful level of social order that civil liberties had become a greater concern. A distressing fact of our time is that international terrorism has undercut the nearly universal support of strong protections of civil liberties.

A Hobbesian state uses simple sanctions to deter individuals from de facto cheating their fellow citizens, for example, through theft. Relatively limited state power is evidently adequate to enforce a high level of social order when the chief violations of that order come from simple self-interest. When the state must deter fanatic actions, such simple, low-grade sanctions may be inadequate. Hobbes saw aristocratic glory seeker's in his era as people who enjoyed the exploits of fighting and who therefore were not fit citizens for a world of social order (Hardin 1991). His response to them was to anathematize them, to declare them enemies and therefore make it acceptable for citizens to kill them with impunity if they would not leave. He had a similar view of how to deal with religious fanatics who insisted that everyone be subjected to their own views. His society succeeded in living past the massive, violent disruptions of his century. The aristocrats of future generations mellowed and gave up glory seeking. Religious fanatics sometimes left England for Holland or the Americas and sometimes simply withdrew from the political fray. Had both groups persisted in the behaviors that wrecked life for vast numbers during the seventeenth century, the later concern with civil liberties could not have arisen.

Legal action against ordinary miscreants has two aspects: backward looking and forward looking. It is backward looking when it punishes a particular action; it is forward looking when it deters action from even happening. Backward-looking punishment of ordinary crimes acts simultaneously to help deter future crimes. Punishment of acts of fanatical terrorism is likely to have little or no deterrent effect. The retributivist school of thought holds that criminal law should be backward looking, not forward looking. Such law should be not about deterrence but about punishment of wrongdoing. This view is often associated with the view that what counts as a crime is not merely conventionally determined by what the law says but is a moral wrong per se and thereby deserves punishment. This general view does not easily fit such problems as terrorism, especially suicidal terrorism. Punishment after the fact is often irrelevant (not always—those who planned and carried out the 1993 bombing of the World Trade Center were tried and sentenced to long jail terms). Even when it is not irrelevant, our overwhelming concern is to deter terrorism. The only effective deterrence is de facto total deterrence. For example, the only ways to deter suicide bombers are to stop them in their tracks and jail them or to block their entry in advance.

The liberal state is not well designed for the latter form of deterrence. Indeed, the liberal state is not well designed for the kinds of surveillance needed for either form of deterrence. The liberal state was designed to achieve a high level of social order without massively infringing the liberties of ordinary citizens. The Nazi state, the states of many military juntas, and the state of many fundamentalist regimes, such as that in Saudi Arabia, can adopt the draconian devices that suppress such fanatical actions. They presumably make many errors of commitment—killing or otherwise suppressing the innocent—while killing and suppressing those who might have been destructive if allowed to run free. As its central purpose, a regime of civil liberties is designed to protect against such errors of commitment, which wreck the lives of the innocent. Even for the prosecution of ordinary crimes, errors of commitment are seemingly common, as is suggested by recent uses of DNA evidence to exonerate many men on death row in various states of the United States.

The idea of protecting civil liberties was to protect those for whom the social order is beneficial. People who benefit from the social order will generally not attempt to wreck it. Citizens who build their lives on the extent social order are likely to acquiesce in government actions to maintain that order. They will be supportive of well-directed policy action and of a criminal justice system that seems to work properly. Most citizens will also acquiesce in government secrecy in certain matters, such as strategic planning during wartime and weapons designs, and in some degree of police surveillance through checking identity cards such as driver's licenses or passports.

Most citizens might even acquiesce in such activities as those of J. Edgar Hoover's relatively abusive FBI. But opposition to such activities is apt to be substantial, so substantial as to disrupt loyalties in the society. In the United States, moreover, Congress is likely to be perturbed by such secrecy and the actions it cloaks. A police force that is abusive in such ways cannot get fully voluntary compliance from citizens, many
of whom will not give it information or other assistance it needs to function successfully. Furthermore, opposition to such a police force can transmute into more general opposition to the regime.

Concluding Remarks

Who were the men and perhaps women who organized and carried out the attacks on the World Trade Center and the Pentagon in September 2001? If their narrowly focused, extreme beliefs required sustenance from the community in which they lived and with whom they shared their beliefs, then there must be a significant number of others living in Florida, New Jersey, and maybe other places such as Minnesota, because some of these people had evidently been in the United States for many years. In the news coverage so far, people are reported to say some of them were friendly and polite. But no one says any of them was a friend. They seem to have managed to keep themselves apart.

Were they like the Unabomer—individuals living in our society but almost totally isolated, holding strong beliefs and dealing with almost no one? Or were they more nearly like the Amish—a community with close relationships, one that provided constant affirmation of and support for their beliefs? If they and others who might follow them are like the Unabomer, they will be hard to find and track. Indeed, it will be extremely difficult even to identify any of them before they act. If they are like the Amish, their communities in the United States might be located, and we might come to understand their goals.

We might suppose that they are more like the communal Amish than the isolated Unabomer. Some of them needed to use the American world of flight training to become competent to do what they did, so they had to move in and out of the larger American society, and they had to be here for a moderately long time. Hence they were involved in some limited networks in the larger society as necessary to sustain themselves, to learn to fly, and to use other resources to help them in their planning and execution of their horrendous actions. But they were evidently otherwise isolated from that society. Their isolation made them less known and even knowable. Had they had richer relationships in the larger society, they might have been identifiable, but then their motivations might also have been or become different, so that there would have been nothing of special public interest to know them for.

We evidently face Hobbes's problem of groups that are misfit for society because they wish to destroy it rather than to benefit from it. But we face that problem in the era of strong protections of civil liberties, and we would be aghast at Hobbes's own solution to his problem, which would be to kill or drive out committed terrorists (if we could identify them). Western liberal societies cannot adopt such a Hobbesian domestic policy without harming and maybe even wrecking themselves (although in Afghanistan we have adopted the equivalent of a Hobbesian foreign policy). We have our commitment to civil liberties because we long ago overcame our problems of grievous social disorder and were therefore able to focus our efforts on less destructive issues than those of religious fanatics and aristocratic glory seekers. The religious fanatics among current terrorists seem fanatical at levels that the various Protestant sects of Hobbes's time could not have rivaled. Some of the current terrorists might be more nearly romantic glory seekers than religious fanatics. Indeed, Osama bin Laden has seemed in his videotapes to be playing rather than to be deeply religiously motivated, although that appearance may be little more than a trick of his personality.

Western liberal democracies overcome their own problems of disorder primarily through economic advances that led to the quasi embourgeoisement of the large majority of all citizens. In part, it is that economic success that is now the target of terrorist actions. Because terrorists' goal is destruction rather than something more nearly like theft, liberals have no incentive system that can overcome their urges. Treating them as criminals if they are caught in planning or carrying out attacks makes sense ex post, but the threat of such sanctions will play little or no role in motivating them ex ante. Our issue is almost entirely that ex ante problem. It is not an entirely novel problem, but it is entirely novel to face it in an advanced liberal democracy that has no theory or institutional devices for dealing with it.

It is disheartening that the contemporary problem of Islamic terrorism provokes, in a new form, the old problem of pervasive group-generalized distrust of a particular ethnically defined group within the society. More generally, the ongoing threat of massive terrorism is likely to be highly corrosive to a liberal society. The example of Israel suggests grim possibilities. Israeli politics has drifted toward support of those who favor draconian policies and very nearly a police state that cannot be sustainable but that may block other possibilities. At the very least, civil liberties in the face of substantial terrorist threats will be more constrained than in the past. Although some proponents of civil liberties seem to frame them in absolutist terms, they are only of value once we have secured survival. If survival is at stake, the niceties of civil liberties are of less urgent concern. When a tiny fraction of an identifiable group is likely to wreak horrendous harms, the product of the small probability and the scale of the harm seems to lead to group-generalized distrust that is statistically justified and that may lead to
strong support for antiliberarian policies that work against all the members of the group.

Notes

1. On the change from small community to urban life, see Watters (2003).
2. See Hobbes (1651/1968, chap. 15, 209); and Hardin (1991). Don Herzog (1989, chap. 3) supposes that the nobility were the target of this worry because, contrary to Hobbes’s ground principle for his laws of nature, they were not interested in seeking or enjoying peace but actually preferred strife, in which they could achieve glory and honor.

References