



Independent

NEWSLETTER OF THE INDEPENDENT INSTITUTE

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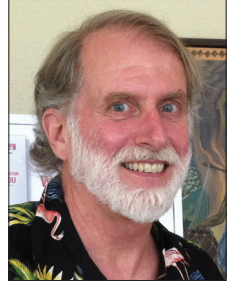
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Securing Freedom During a Pandemic

By Randall G. Holcombe



In the midst of the COVID-19 pandemic, we run the risk that policies designed to address short-run problems will permanently compromise individual liberty—the founding principle of our nation.

History shows that when a crisis appears, government power expands. After it passes, government scales back—but only to a level above its pre-crisis baseline. The residual net increase in government power exacts a permanent toll on people's rights and freedoms. I discuss many such episodes in my book, *Liberty in Peril: Democracy and Power in American History*, and have taken inspiration from Independent Institute scholar **Robert Higgs's** pathbreaking book, *Crisis and Leviathan*.

To date, military and economic emergencies have been dominant inflection points in the upward trend lines of government's size, scope, and spending. Pandemics, however, are not immune to the ratchet effect.

Within mere weeks of its outbreak in the United States, the novel coronavirus had germinated novel government responses, such as prohibiting elective medical procedures in hospitals and New York's policy of housing COVID-19 patients in nursing homes. Such ill-considered policies were enacted, no doubt, with the very best of intentions. And many other government responses to the pandemic, and to future contagions, will emerge with people's health foremost in mind.

But any proposed reductions of our freedoms should come with a warning label.

How might we inoculate ourselves from crisis responses that weaken our system of individual liberty and government accountability, freedom of choice and free-market prosperity?

One tactic is to require that policy prescriptions have a clear expiration date, lest panicky responses to immediate urgencies become the toxic new normal for the long term. Sweden was on to something when it passed a law in April ensuring that pandemic-related restrictions were set to automatically expire in months.

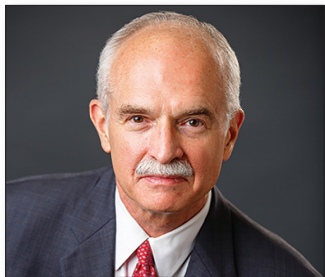
The academic and policy communities, for their part, could pursue an agenda dedicated to crisis avoidance, with a sizable component devoted to problems caused by crisis responses. This research and policy program—applying the “precautionary principle” to the risks of government power—would broaden and deepen our understanding of policy trade-offs and consequences.

At last we would better see the hidden fine print regarding the side-effects of measures that impinge on our health, prosperity, and liberty.

Randall G. Holcombe is a Senior Fellow at the Independent Institute, DeVoe Moore Professor of Economics at Florida State University, and author of *Liberty in Peril: Democracy and Power in American History* (Independent Institute, 2019).

PRESIDENT'S LETTER

COVID-19: Reversing Government Failures



DAVID J. THEROUX
Founder and President

Government responses to the pandemic have devastated “non-essential” businesses, workers, transportation, sports, political rallies, education (K-12 and college), churches and synagogues, healthcare, and more—while violence at protests has been excused. The virus is bad enough, but politicians and bureaucrats have added a carnival of hypocrisy and government failure.

As the U.S. entered the crisis and our Senior Fellow **John C. Goodman** has noted, it was illegal to produce masks, gowns, and gloves not approved by the FDA. Nor were hospitals permitted to add more beds without government permission or doctors allowed to practice across most state lines.

From the start, the Independent Institute has challenged government pandemic responses with proven market-based solutions.

Beyond our many books on related topics, we have prescribed scores of common-sense alternatives to risky pandemic policies. As of September 2, they included 18 COVID-19 videos, 12 new audios, and 187 articles and op-eds—with a total media reach of nearly 950 million—each one showing how counterproductive policies can be reversed.

Here’s a sampling of what we’ve proposed:

- *Medicine and Healthcare:* Accelerate a COVID-19 vaccine without the federal government attempting to pick winners and losers. Lift restrictions that hinder telemedicine and home test kits. Make permanent all temporary suspensions or easing of regulations that impede healthcare providers and drug and equipment manufacturers. Expand patients’ “right to try” experimental COVID-19 treatments.
- *Economy:* End lockdowns that harm families even more than COVID-19 has done. Restore the economy without counterproductive surges in federal spending and debt. Halt the

Federal Reserve’s reckless mega-expansion of money and credit. In California, lift restrictions that harm rideshare and food delivery drivers and other independent contractors.

- *Education:* Ensure that kids are safe in their schools. Protect students from online threats to civil liberties. Restore higher education by slashing costs and adding real value to student’s lives and society at large.
- *Constitutional Protections:* End restrictions on private-property rights, including those for manufacturers, medical facilities, nursing homes, and hotels. Ensure that Second Amendment rights survive bogus “non-essential” store closures. Create a pandemic exit strategy that protects against intrusive government overreach.

Our insightful and hard-working Fellows have shown there is a better way that lets Americans freely provide for themselves and others.

I invite you to join with us in countering the fallacy that constrictive bureaucratic controls are necessary, positive or inevitable, by visiting the COVID-19 section of our website at Independent.org and FDAREview.org... and sharing them with others!

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NEW BOOK

New Way to Care: Social Protections That Put Families First

Every decade or so a disaster hits the United States and shows us that most Americans are financially unprepared for an economic calamity. But even in good years, too few people save enough money for unexpected medical bills, for periods of unanticipated loss of income, and for a comfortable retirement.

Nor are federal, state, and local safety nets up to the task: At all levels, government has made promises that American taxpayers seem either unable or unwilling to fund.

In his new book, *New Way to Care: Social Protections That Put Families First*, Independent Institute Senior Fellow **John C. Goodman** offers a comprehensive strategy to help Americans better protect themselves from the major risks in the modern world.

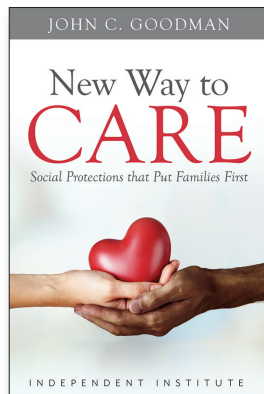
Here's a taste of the book's recommendations:

- Many executive actions on health policy the Trump administration took in early 2020 reflect a new and positive approach, such as promoting telemedicine, enabling chronically ill patients to obtain free diagnoses and treatments without losing access to Health Savings Accounts, and encouraging employers to provide workers with individually owned policies. We've come a long way very quickly, but *New Way to Care* shows how much farther we need to go.
- To avoid the need for a Social Security tax hike or benefits reduction, *New Way to Care* proposes allowing employees to opt out of Social Security and fund their own retirement by saving and investing 4 percent of their wages throughout their working lives. Upon retirement a worker's account balance would be used to buy an inflation-protected lifetime annuity providing monthly income.

The government would guarantee each retiree a pension income no less than what Social Security would have promised.

- A system of individual Unemployment Insurance Accounts would eliminate the incentive for employers to lay off workers. Workers with unstable jobs would no longer disproportionately bear the burden and could demand a higher wage premium that makes up for the smaller account balances expected at retirement. The safety net for workers who are new to the labor force or are frequently unemployed could be funded by experience-adjusted tax rates. Workers would then have a strong incentive to find new jobs quickly, so that they will have more money in their accounts at retirement.
- Obamacare's insurance exchanges could be turned into real markets, without artificial prices, without government risk adjustment, without limited enrollment periods, and without the perverse incentives to underserve the chronically ill patient pool. It's even possible to ensure real protections for individuals with pre-existing conditions.

The path to the promised land mapped out in *New Way to Care* is bold (even calling for the liquidation of federal assets to fully retire the \$26 trillion national debt), but the signpost at the trailhead need not say "Take It or Leave It." Allowing individuals to opt out of government safety-net programs partially and progressively over time would reduce people's concerns and should make Goodman's win-win strategy a popular bridge over America's partisan divide.



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Independent Institute in the News

Center on Law and Justice

“It’s time to retire the worn-out riot ideology of the 1960s. Riots are not a form of protest; indeed, they hurt the cause of civil rights and are a source of injustice to those who suffer from the looting and arson.”

—**Jonathan J. Bean** on *FoxNews.com*, 6/8/20

Center on Peace and Liberty

“Trump’s [partial] troop withdrawal [from Germany] is a tiny step toward a long overdue complete pull out of U.S. forces from Europe and a handover of primary defense responsibility to the Europeans.”

—**Ivan Eland** in *The American Conservative*, 6/11/20

Center on Entrepreneurial Innovation

“Just when workers needed flexibility, AB-5 comes along and stifled it and greatly limited it. I don’t think Californians who are hurting can afford the limitations forced on them by AB5....When people are free to offer their services as independent contractors, they can find their niche, they can flex, they can find a way forward, they can support themselves.”

—**Graham H. Walker** on KTVU-TV, 5/29/20



GRAHAM WALKER ON KTVU-TV, 5/29/20

“To disable the ratchet effect, people must rouse themselves to think more seriously about the long-run consequences of actions taken hastily in response to national emergencies—and about whether they want to keep their remaining economic freedoms and civil liberties or be content to surrender them one crisis at a time.”

—**Robert Higgs** and **Donald Boudreaux** in *Reason*, 5/1/20

“Hong Kongers are still yearning to breathe free. If the Chinese Communist Party makes it impossible for them to breathe free in Hong Kong, the United States should invite them to breathe free here.”

—**Benjamin Powell** in *The Hill*, 6/6/20



BENJAMIN POWELL ON C-SPAN2, 7/12/20

Center on Healthcare Choices

“The reason why Obamacare looks like a Rube Goldberg contraption is that it is a market designed by Democrats who don’t believe in markets. It is funded by tax credits designed by Democrats who don’t believe in tax credits. It tries to force young, healthy families to buy the wrong kind of insurance and overcharges them in the process.”

—**John C. Goodman** in *Forbes*, 6/29/20

Center on Educational Excellence

“Children have only one childhood in which to master skills and knowledge so they can fulfill their potential. Contrasting the tiny public-health risks with the devastating educational deprivation, it is imperative that public officials let America’s children return to school now.”

—**Williamson M. Evers** in *Real Clear Education*, 6/22/20

Center on Global Prosperity

“The ‘Antifa’ agitators who call everyone who is not allied with them a fascist—but act like fascists themselves by turning legitimate grievances into acts of vandalism and violence—weaken their cause by threatening liberal democracy and peaceful coexistence. Decent people do not want America turned into a war zone in the name of anti-fascism, anti-racism or any other anti-ism.”

—**Alvaro Vargas Llosa** in *The Washington Times*, 6/24/20

THE INDEPENDENT REVIEW

Eugenics, Slavery, and Big Government

For nearly a quarter century *The Independent Review* has contributed to national discourse on matters of pressing importance. Here are highlights from our Summer 2020 issue.

Eugenics in High School History

At a time when America is reckoning with racism, a study of high school textbooks reveals little if any mention of the period in U.S. history when “scientific racism” and eugenics were squarely in the nation’s intellectual mainstream.

Historical amnesia about this distressing aspect of our nation’s past—roughly from the late nineteenth century to the early 1930s—comes to light in “Eugenics in High School History: Failure to Confront the Past,” by **Thomas F. Cargill**, a Research Fellow at the Independent Institute and Professor Emeritus of Economics in the College of Business at the University of Nevada, Reno.

Is the failure of textbook authors and selection committees a result of wishing to avoid calling out leaders of eugenics and “scientific racism” because they are heroes of the Progressive movement?

The possibility is strong, although recent developments indicate that such icons are now entering a phase of greater scrutiny. On July 21, Planned Parenthood of Greater New York announced it would remove the name of founder Margaret Sanger from a Manhattan clinic due to her role in the eugenics movement, explicitly citing “her racist legacy” and “contributions to historical reproductive harm within communities of color.”

Sanger’s image, and a damning quote from her advocating “stern and rigid” policies of sterilization and segregation, grace the cover of *The Independent Review*.



THE INDEPENDENT REVIEW
SUMMER 2020

Cargill stated that he wrote his article to enhance “the environment for a balanced presentation of U.S. history.” Already his scholarship seems destined to leave a mark.

Smith’s Rebuke of Slavery

Hailed by many as the father of economics, Adam Smith (1723–1790) criticized the inefficiency of slavery in *The Wealth of Nations* (1776), but his strongest words against slavery—targeting its injustices—came almost twenty years earlier in *The Theory of Moral Sentiments* (1759).

Smith not only railed against the injustice of slavery, he proposed that perpetrators of the slave trade “tend toward criminality” and described them as the “refuse of the jails of Europe,” explains **Daniel B. Klein** in “Adam Smith’s Rebuke of the Slave Trade, 1759.” Klein is a Research Fellow at the Independent Institute, Professor of Economics at George Mason University, Associate Fellow of the Ratio Institute, and Chief Editor of *Econ Journal Watch*.

“Heightening the intensity of the condemnation,” Klein writes, “is the fact that it is the first time and nearly the only time in [*The*

Theory of Moral Sentiments] that the reader finds Smith addressing a specific issue of current policy and declaiming upon it.”

So remarkable were Smith’s fulminations against slavery and the slave trade that, even decades after they were first printed, abolitionists quoted them in their anti-slavery pamphlets.

Big Government

Adam Smith advocated that governments focus on three basic functions—national defense, the administration of justice, and the provision of certain public goods such as education and ports. How well do today’s governments, which spend so much of their budgets on social welfare including health care and retirement pensions, carry out the core duties championed by Smith?

Sydney Patton and **Jody W. Lipford** (Presbyterian College) examine the evidence in their article, “Is the Welfare State Crowding Out Government’s Basic Functions? An Update.”

Social welfare expenditures as a share of the U.S. budget, Patton and Lipford find, surpassed spending on Smith’s priorities in 1973. Social spending has since risen steadily and is projected to continue its upward trajectory. If it hasn’t already crowded out spending on Smith’s priorities, it will do so if spending trends continue, the authors conclude.

The Congressional Budget Office finds the trends alarming. The agency warned in 2018 that rising deficits and debt could put “pressure on the rest of the budget,” weakening the government’s ability to provide basic infrastructure and to protect the country from foreign aggression—core duties on Smith’s list of proper government functions.

POLICY ENGAGEMENT

Independent *Briefings* Promote Educational Excellence and Genuine Safety



Independent Institute’s *Briefing* series grapples with some of the most crucial policy issues of the day. Two studies we recently published deal with education and regulatory risks.

Better than Common Core

Pop quiz time. Which state in the union has the best public school curriculum standards?

If you answered Florida—a state that abandoned the Common Core State Standards that swept the country in 2010—you are correct. Adopted in early 2020, the Sunshine State’s new benchmarks in English language arts (ELA) and mathematics are the best in the nation.

This finding comes from a recent *Briefing* published by the Independent Institute, ***Better than Common Core: Florida’s New K-12 Standards Raise the Bar***, by **Ze’ev Wurman, David M. Steiner, Ashley Rogers Berner, and R. James Milgram**, a team with extensive experience in education policy and evaluation.

The *Briefing* contributors argue that Florida’s superior English language arts criteria are worth emulating. “Our ELA team found the Florida B.E.S.T. [Benchmarks for Excellent Thinking] standards to be ‘the strongest standard in ELA currently in use in the United States,’ and that ‘with modest additions and clarifications, the Florida standards can stand as a new model for the country,’” Wurman writes.

Briefing contributor and Stanford mathematics professor emeritus R. James Milgram called Florida’s new benchmarks “exemplary” and “among the best I have ever reviewed for any state in the country.” Milgram is the lead author of California’s highly praised math standards of 1997 and a past member of the Common Core Validation Committee, one of five members who refused to sign off on its recommendations.

“Florida’s model should give hope to parents and teachers who want to boost student learning,” said Williamson M. Evers, Director of the Independent Institute’s Center on Educational Excellence.

Precaution Can Kill

Caution in appropriate dosage can avert disaster, but caution in excess can invite it. The “precautionary

principle”—a rationale for over-regulation or even the outright banning of chemicals due to fears of unsubstantiated hazards—can even cost lives.

So say **Kevin D. Gomez, Diana W. Thomas, and Ryan M. Yonk**, the authors of ***Precaution Can Kill: Chemical Benefits and Regulatory Risks***, an Independent Institute *Briefing* that evaluates the precautionary principle and cost-benefit analysis as guides to chemical hazard regulation.

Far better than either of these approaches, it argues, would be a common-law remedy: assigning legal responsibility to chemical manufacturers and thereby creating incentives for them to weigh the risk of harm and the benefit to consumers. Three case studies shed light.

- **Flame-retardant chemicals.** While advocacy groups push to ban flame retardants, the National Academy of Sciences warns that bans stemming from the overestimation of risks can harm public health if the chemicals in fact reduce injuries and deaths by fires.
- **Ethylene Oxide (EO).** Chemical companies make EO for use in personal care products, plastics, household cleaners. It’s used especially to sterilize medical equipment and instruments. When the Environmental Protection Agency issued a 2016 report on EO carcinogenicity, panic set in. States and localities overreacted by ordering the closure of medical sterilization plants. “As the EPA attempts to offer alternatives for EO, shortages of sterile medical supplies continue, along with more infections and related deaths in hospitals,” according to the *Briefing*.
- **Chlorine in Drinking Water.** Where implemented, the chlorination of drinking water has eliminated cholera, dysentery, and other water-borne disease. Some health officials nevertheless have resisted chlorination of public water systems, often citing a discredited 40-year old study.

Peru in 1992 suffered mass casualties from such resistance. According to the *Briefing*, “The well-intentioned precautionary stances by the government contributed to an additional 400,000 cases of cholera and more than 3,100 deaths.”

CALIFORNIA GOLDEN FLEECE® AWARDS

Bugs in State Computer Upgrades Create Hassles and Cost Taxpayers \$\$\$

Sacramento may be only a two-hour drive from Silicon Valley, but the gulf between the California state capital and the birthplace of the computer revolution is sometimes measured in light years.

Overhauls to California's outdated state information technology (IT) systems have fallen hard on taxpayers, fostered waste and inefficiencies, and undermined the ability of government agencies to help the people they are supposed to serve.

Outdated and faltering systems have caused added stress and headaches for millions of unemployed Californians attempting to file claims with the Employment Development Department, for millions of automobile drivers via the Department of Motor Vehicles, and for thousands of families through the state's Automated Child Support System and BreEze occupational licensing system, and much more.

For this reason, Independent Institute bestowed its tenth *California Golden Fleece® Award* on agencies responsible for overseeing and administering the state's various failed IT projects. These agencies include the California Department of Technology, Department of General Services, Department of Finance, State Controller's Office, State Treasurer's Office, Judicial Council of California, Administrative Office of the Courts, Department of Motor Vehicles, and Department of Consumer Affairs. The problems and remedies are the focus of our Award report, *Bugs in the System: California Government Technology Failures and Recommended Solutions*, by Adam B. Summers.

Breadth and Depth

Watchdog agencies have long expressed worries about the state's IT cost overrides, delays, and mismanagement. The State Auditor has designated California's computer systems as one of the "high-risk" issues facing the Golden State. The possibility of cyberattacks—including ransomware that criminals use to hold agencies hostage—underscores the urgency for the state to adequately upgrade its systems and safeguard Californians' personal data.

Case Studies

Bugs in the System examines numerous state IT project failures. The following cases involve financial management, payroll, and the courts:

- *Department of Finance.* To integrate dozens of older budget systems, the state began 15 years ago the largest and most expensive IT project in its history—FI\$Cal. Intended partly as a



cost-saving effort, FI\$Cal has been plagued by delays and costs adjustments that have pushed its price tag from initial projections of \$600 million to recent estimates of \$1.1 billion. Substandard and only partially implemented, FI\$Cal threatens the ability to produce accurate financial reports and jeopardizes the state's credit rating, potentially imposing huge extra costs on future taxpayers.

- *State Controller's Office.* A plan to update the state-employee payroll system goes back more than 20 years. Dubbed the 21st Century Project, it was supposed to become the largest payroll modernization in the nation, estimated in 2004 to cost \$132 million. It was abandoned but its successor, MyCalPays, had already cost \$262 million before it, too, was ended, in 2013, after the pilot test failed to yield even one pay cycle without employee overpayments, underpayments, or denial of medical coverage.
- *Administrative Office of the Courts.* The state had grand ambitions when it embarked on replacing its 70 county-based IT court systems with an overarching Court Case Management System (CCMS) meant to ensure statewide coordination, reporting, scheduling, and payments for courts, law enforcement, and the public. The aim, however, was undermined by flawed contracts with IT developers. In 2012, the Judicial Council of California killed the project after expected costs had surged from initial estimates of \$260 million to nearly \$3 billion.

Bugs in the System makes 20 recommendations to improve California state IT project planning, contracting, implementation and oversight, accountability, and data privacy.

Following its release in September, we began a publicity campaign targeting key media and leading opinion makers. For more information, visit www.independent.org/publications/cagoldenfleece/.

MEMBER BENEFITS

Securing Your Legacy of Liberty and Opportunity

Everywhere we look, we see America facing major challenges. Cities are in turmoil, thousands of businesses have permanently shut their doors, unemployment has reached levels not seen since the Great Depression, and future taxpayers face mounting government-debt obligations. And COVID-19 lingers.

But the greatest danger we face is despair. Those who succumb will lose their resolve, but those who plan for the future will endure—and succeed.

Through our award-winning book program, media appearances, op-eds, *Beacon* and *Catalyst* blogs, *The Independent Review*, and new initiatives such as our *Independent Outlook* livestream discussion series, we are forging ahead to advance a future of freedom, harmony, and prosperity. Your future.

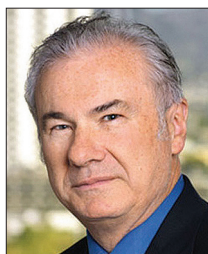
How can we best help *you* plan for the long run?

Independent's **Safe Harbor Legacy Society** assists members in promoting their values beyond their lifetimes through charitable estate planning.

By Investing in Independent, Your Legacy Will:

- Promote innovative ideas that transcend politics and advance liberty
- Inspire ordinary Americans to effect real change in their communities
- Build a future of opportunity and prosperity.

“I want the principles I believe in—affirming limited government, individual liberty, a competitive economy—to far outlast my own reach,” says renowned UC Berkeley Haas School of Business professor and Independent Institute Board



Member **David J. Teece**. “That’s why I’m investing in the Independent Institute by becoming a member of its Safe Harbor Legacy Society. I invite all those who care about the future of liberty and the rule of law to join me.”

As the current tempest shows, the journey to our destination won’t always be smooth sailing. But hitching your boat to the Safe Harbor Legacy Society will help you rest assured that your lifetime of hard work will benefit future generations deserving to live in peaceful, prosperous, and free societies grounded in a commitment to human worth and dignity.

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