

UQ Wire: The Crimes Of 9/11 (Part 1)
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THE CRIMES OF 9/11:
Bush Administration, CIA and FBI Misconduct Caused "Intelligence Failure" (Part 1)

See also... UQ Wire: The Crimes Of 9/11 (Part 2)

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Where is the line between investigative discretion and obstruction of justice?
What level of forewarning of attack is so compelling that failure to order protective measures makes officials liable to prosecution for reckless endangerment? Evidence provided to the Congressional 9/11 Joint Inquiry Committee provides prima facie evidence that these lines were crossed. It now becomes clear that a grand jury could indict those U.S. officials whose obstruction, negligence and recklessness are known to have contributed to the attack which left some 3,000 innocent people dead on September 11, 2001.

Testimony heard by the Congressional Joint Inquiry shows that certain ranking CIA officers and FBI agents committed a number of indictable offenses in the course of mishandling foreign intelligence surveillance against al-Qaeda. These operations were allowed to spill-over into the U.S., and were conducted for many months without warrants and lawful authorization. The entry into the U.S. of known al-Qaeda operatives was kept secret from most FBI offices and other national security, law enforcement, and civil aviation authorities. The subjects of this domestic covert operation - the four primary 9/11 hijackers -- went on to carry out air attacks against the World Trade Center and the Pentagon, and another crashed in western Pennsylvania. President Bush's national security advisors were aware of the threat, yet they recklessly allowed the military and civil aviation authorities to stand down from a heightened terrorism alert status that had been in place earlier in the summer. Failures to follow legal and agency procedures - including domestic intelligence pass-off and warrant requirements -- led to a loss of control over this operation, and the

resulting
loss of life. Particularly odious was the refusal of certain CIA and
FBI
officers to provide information requested by the NY and Minneapolis
field
offices in the weeks before the attacks. Separately, these constitute
distinct
offenses, including criminal negligence, reckless endangerment and
obstruction
of justice by the officials in charge. The elements of these offenses
include
violations of federal and state criminal law, as well as violations of
federal
agency procedures.

Taken together, these crimes and violations were the proximate cause of
the
"successful" attacks that killed 3,000 innocent people in New York,
Virginia,
and Pennsylvania on September 11, 2001. As a result, the CIA officers
and FBI
agents who directed this operation, along with White House national
security
officials, are liable for both criminal and civil charges, as follows:

1. CRIMES

· Obstruction of Justice (18 USC, Sec. 1510, Obstruction of Criminal
Investigations; Sec. 1505, Obstruction of Agency Investigations and of
Congressional Investigations)

[BACKGROUND: January, 2000 - At least four of the primary 9/11
hijackers were
under U.S. intelligence surveillance abroad. Two of them, Khalid
al-Mihdhar and
Nawaf al-Hazmi (alleged to have led the terrorist boarding party on
United
Flight 77 that slammed into the Pentagon), were surveilled by the CIA
at an
important al-Qaeda planning summit in Malaysia that took place January
5-8,
2000. The pair then traveled to a third country in South Asia in the
company of
"Khallad", a major al-Qaeda operations commander who already had a \$7
million
price on his head for his role in financing the 1993 World Trade Center
bombing.
The pair entered the United States a week later. Senior CIA and FBI
agents at
the Central Intelligence Agency's Counter Terrorism Center (CTC) shared
information about al-Mindhar, al-Hazmi and other al-Qaeda operatives
seen at the
Malaysia summit. None of this information, however, was released to
other FBI
offices or law enforcement, immigration, and civil aviation

authorities.

Fast forward to August, 2001 - FBI agents in the Bureau's National Security division in New York frantically seek evidence that would support applications for warrants to locate and arrest al-Mihdhar and al-Hazmi, whom agents in that office has learned only days earlier have both entered the U.S.. Meanwhile, at the Minneapolis field office, FBI agents Coleen Rowley and her colleagues are frustrated in their efforts to obtain evidence sufficient for a warrant to open the laptop computer of Zakarias Moussaoui, who on his way to the US in August 2000 had stayed in the same condominium in Malaysia where the al-Qaeda summit meeting had been observed by the CIA. Moussaoui and 9/11 hijackers Mohamed Atta, al-Midhar and al-Hazmi had received money wired from Germany by Ramzi bin al-Shibh, Atta's former roommate, who had also attended the Malaysia meeting.

During the weeks before September 11, the CIA counter-terrorism officers at CTC and their FBI liaison, along with the Bureau's Radical Islamic unit, are contacted by the Bureau's New York and Minneapolis field investigators with requests for information that would support warrant applications. At a June 10 meeting with the NY investigators, the CIA refuses to respond to FBI agents requests to provide information about the purpose and context of the surveillance of al-Midhar and al-Hazmi in Malaysia. Lacking this specific information and context that the attendees at the Malaysia meeting had met with known directors of previous terrorist attacks on American targets, NY FBI field agents decide to abandon attempts to apply for warrants. The manhunt for known al-Qaeda operatives in the U.S. is fatally delayed for weeks, allowing the hijackers time and opportunity to carry out their attacks.

Negligent Homicide (New York State Penal Law section 15.05, Criminally Negligent Homicide) (definition: the unintentional killing of another person resulting from an action involving "depraved indifference"; at the very least, the action involved a "substantial and unjustifiable risk" under circumstances amounting to "a gross deviation from the standard of care that a reasonable person

would
observe in the situation.")

[BACKGROUND: During the summer of 2001, the White House and the intelligence community received a series of steadily escalating warnings of al-Qaeda plans to use hijacked airliners to attack high profile structures in the New York and DC areas, including the World Trade Center and the Pentagon. Yet, no timely measures were taken to protect airspace around these long-anticipated and obvious targets. In fact, military and federal anti-terrorism agencies were ordered to stand down in the weeks before the attack. This stand down decision was entirely unreasonable in view of the continuing terrorist threats to U.S. aviation known to US officials. The fact that the FBI could not locate al-Qaeda operatives inside the U.S. who were known to be trained pilots was compelling reason to maintain high alert levels. Actions taken to de-escalate heightened security measures put in place earlier that summer show a depraved indifference to a recognized danger to public safety and a blatant disregard for human life. President Bush's national security advisors, who were aware of the risks of terrorist attack, are liable for their gross deviation from normal standards of care that should have been observed.

This foreknowledge of imminent attack from the air had been preceded for years by a number of events that should have lead responsible officials to keep in place enhanced civil aviation safeguards and heightened air defense alert measures. Despite briefings about increasing concerns among federal law enforcement that signs of terrorist activities pointed to an imminent attack, the White House and national counter-terrorism leadership actually relaxed the alert status at federal agencies in the weeks before 9/11, including the FAA, that had been imposed earlier that summer.

"As late as July 31, the FAA urged U.S. airlines to maintain a "high degree of alertness." All those alert levels dropped by the time hijackers armed with box cutters took control of four jetliners on the morning of Sept. 11." [Washington Post, Barton Gellman "Before Sept. 11, Unshared Clues and Unshaped

Policy" ,
A-1, 05/17/02].

CIA Director Richard Tenet had reportedly been "'nearly frantic' with concern since June 22", the day the U.S. military placed its forces in Central and Eastern Europe on "Delta" alert status in anticipation of terrorist attack on American targets. The State Department then ordered its foreign posts to implement emergency plans. "[A] written intelligence summary for national security adviser Condoleezza Rice said on June 28: 'It is highly likely that a significant al Qaeda attack is in the near future, within several weeks' . . .

On July 3, Tenet made an urgent special request to 20 friendly intelligence services, asking for the arrest of a list of known al Qaeda operatives. [Ibid.]

The heightened alert followed a July 5 high-level official meeting convened in the White House Situation Room by Richard Clarke, head of counter-terrorism at the NSC. In a May 2002 account, The Washington Post reported:

"Something really spectacular is going to happen here, and it's going to happen soon," the government's top counter-terrorism official, Richard Clarke, told the assembled group, according to two of those present. The group included the Federal Aviation Administration, along with the Coast Guard, FBI, Secret Service and Immigration and Naturalization Service.

Clarke directed every counter-terrorist office to cancel vacations, defer non-vital travel, put off scheduled exercises and place domestic rapid-response teams on much shorter alert. For six weeks last summer, at home and overseas, the U.S. government was at its highest possible state of readiness -- and anxiety -- against imminent terrorist attack.

That intensity -- defensive in nature -- did not last. By the time Bush received his briefing at his ranch in Crawford, Tex., on Aug. 6, the government had begun to stand down from the alert." [Id.]

In response to a perceived threat, anti-aircraft missile launchers were installed near the site of the Genoa G-8 summit, which Bush attended July 8-10. Bush continued to receive high levels of protection from potential air

attack

after that trip, as the near shoot-down of a private aircraft that had innocently wandered into airspace above the Presidential ranch in Crawford, Texas showed.

Meanwhile, the Administration betrayed none of its concerns about terrorism with the public. During this period, on " Sept. 9, Defense Secretary Donald H. Rumsfeld threatened a presidential veto when the Senate proposed to divert \$600 million to counter-terrorism from ballistic missile defense." [Id.]

During the last weeks, the efforts of FBI field offices to search for intelligence information vital to obtain warrants to hunt another al-Qaeda suspect was being thwarted. Minneapolis FBI Agents initiated a national security investigation of Zacarias Moussaoui on August 15, before taking him into custody on immigration violations two days later. The Joint Committee Staff Director reported that the FBI agents investigating Moussaoui sought information about his al-Qaeda ties from several CIA offices, including CTC and the Agency's Paris station:

Like the New York FBI office, the Minneapolis investigative team failed to receive information in the Agency's possession that tied him to the Malaysia al-Qaeda cell that had hosted the January 2000 meeting in Kuala Lumpur. In August, Moussaoui had stayed in that same condominium where the summit took place. Furthermore, Moussaoui was linked to the primary 9/11 hijackers. After his entry in February 2001, he began receiving funds wired from Hamburg by Ramzi bin al-Shibh, Mohamed Atta's former roommate. Denied a U.S. visa on four occasions, al-Shibh cabled money to several of the 9/11 conspirators, including Atta, Al-Midhar and al-Hazmi. Without this information, FBI field investigators gave up on their efforts to obtain a warrant to open Moussaoui's laptop computer, which contained files related to operating jumbo jets and crop dusters, subjects of mutual interest with Mohamed Atta, who had also attempted to register at Airman Flight School in Norman, Oklahoma, which had trained Moussaoui. CNN/Newsweek reported:

"Moussaoui, they say, was carrying the phone number in Dusseldorf,

Germany,
assigned to Ramzi bin al-Shibh. Al-Shibh, now a fugitive, is allegedly
a member
of the Hamburg Al Qaeda cell that also included Mohammed Atta, who flew
American
Flight 11 into the World Trade Center on Sept. 11. Al-Shibh served as a
financial coordinator for the conspiracy, the Feds say, and in early
August sent
\$14,000 in two wire transfers to Moussaoui, who was evidently using
some of the
cash to enroll at Pan Am.

"Then there are the disturbing similarities between Moussaoui and
Mohamed Atta,
federal sources say. Atta visited the same flight school in Norman,
Okla., that
Moussaoui attended, although Atta wound up taking flight training in
Florida.
Atta and Moussaoui both researched using crop dusters for what might
have been a
biochemical attack, and Atta and Moussaoui both bought "flight deck"
instructional videos for the Boeing 747 from the same retailer,
Sporty's Pilot
Shop in Batavia, Ohio. Based on an interview with a woman who lived
downstairs
from Moussaoui in Norman, Okla., NEWSWEEK reported in mid-October that
Moussaoui
ordered videos on the 747-200 and 747-400—a finding now included in the
indictment." [CNN/Newsweek, Sarah Downey, "Who Is Zacarias Moussaoui?
<http://www.msnbc.com/news/673068.asp#BODY>]

[Several years earlier, another al Qaeda operative, Abdul Hakim Murad,
trained
at that same school for a planned suicide hijack air attack on CIA
headquarters.
See, Murad's testimony 1996 trial of Ramzi Ahmed Yusef, a primary
organizer of
the 1993 World Trade Center car-bombing. ed]

Eleanor Hill, the staff director of the Joint Congressional
Investigation issued
a pair of reports on September 20 and 24 on the problems with the FBI
investigation into Zacarias Moussaoui, Khalid al-Mihdhar and Nawaf
al-Hazmi
during the weeks leading up to 9/11. The staff director's report
confirms that
the CIA liaison at the FBI counterterrorism office, along others within
the
Agency, had been notified that the Minneapolis FBI office was seeking
evidence
that would have justified issuance of a FISA warrant to open
Moussaoui's laptop
computer. News that an FBI field office was investigating the French
Moroccan
suspect was soon widely disseminated within the CIA:

A CIA officer detailed to FBI headquarters learned of the Moussaoui

investigation from CTC in the third week of August 2001. The officer was alarmed about Moussaoui for several reasons. CIA stations were advised of the known facts regarding Moussaoui and al-Attas and were asked to provide any relevant information they might have.[Hill, prepared testimony, 9/24/02]

Yet, the CIA failed to provide its dossier on Moussaoui's Malaysia connection until a year later. Similarly, the Agency had also refused to provide FBI investigators in New York what it knew about the Malaysia surveillance operation. This withholding of information appears to have been with the complicity of a small circle of top FBI officials who had earlier been given details of the Malaysia meeting and the subsequent entry of al-Mihdhar and al-Hazmi.

Based on the evidence, a grand jury may conclude that these crimes of obstruction and negligence were the proximate cause of the "successful" attacks that killed 3,000 innocent people in New York, Virginia, and Pennsylvania on September 11, 2001. As a result, the CIA officers and FBI agents who directed this operation may be indicted on criminal charges and face related civil charges that follow:

2. ELEMENTS OF CRIMINAL LIABILITY

COUNT 1: Obstruction of Justice

There are several federal criminal statutes under which obstruction charges might be prosecuted against US officials whose failure to notify FBI investigators about what was known at CTC about al-Qaeda terrorists contributed to the 9/11 attack. Any subsequent failure to fully reveal what was known to congressional investigators constitutes a separate obstruction offense. The Department of Justice Criminal Resource Manual advises:

It is unclear whether 18 U.S.C. § 1512(b)(3) was intended to widen the prohibition against obstructing investigations contained in former 18 U.S.C. § 1510 to include investigations that are not per se criminal in nature, such as an FAA investigation of an aircraft accident, or a Senate committee investigation of the trucking industry. A comparison of the difference

in phraseology between 18 U.S.C. §§ 1510 and 1512(b)(3), however, indicates that those differences are differences of style, not substance, and that no such expansion was intended. Section 1510 proscribes interference with "the communication of information relating to a violation of any criminal statute of the United States . . ." to a (Federal) criminal investigator; 18 U.S.C. § 1512(b)(3) proscribes interference with "the communication to a (Federal) law enforcement officer . . . of information relating to the commission or possible commission of a Federal offense." There is nothing to indicate that Congress intended to depart from the generally accepted meaning of "law enforcement" as criminal law enforcement and of "offense" as criminal violation. See 18 U.S.C. § 1515(4); 128 Cong. Rec. H8203 (daily ed. Sept. 30, 1982). Accordingly, prosecutions for interference with legislative or administrative investigations that have not taken on the character of a criminal investigation should be brought under the omnibus clause of 18 U.S.C. § 1505. See this Manual at 1726.

[DOJ Criminal Resouce Manual 1729 (October 1997)]

COUNT 2: Negligent Homicide

Negligent Homicide is a common law crime that would be punishable under the NY State Law definition of Criminally Negligent Homicide, as found in the state's model instructions to a jury:
CRIMINALLY NEGLIGENT HOMICIDE

(E Felony) PENAL LAW 125.10

(Committed on or after Sept. 1, 1967)

The count is Criminally Negligent Homicide. Under our law, a person is guilty of Criminally Negligent Homicide when, with criminal negligence, that person causes the death of another person. The term "criminal negligence" used in this definition has its own special meaning in our law. I will now give you the meaning of that term: 1

CRIMINAL NEGLIGENCE is not the same as that type of negligence you may be familiar with that permits a person injured by ordinary negligence to obtain a monetary judgment in a civil law suit. The carelessness required for

criminal negligence is appreciably more serious than that for ordinary civil negligence.

A person acts with CRIMINAL NEGLIGENCE with respect to a death when that person engages in conduct which creates or contributes to a substantial and unjustifiable risk that another person's death will occur, and when he or she fails to perceive that risk, and when that risk is of such nature and degree that failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. 2 In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, both of the following two elements:

1. [fact that defendant caused death] That on or about (date) , in the county of (county) , the defendant, (defendant's name) , caused the death of (specify) ; and

2. That the defendant did so with criminal negligence. Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Criminally Negligent Homicide as charged in the count. On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Criminally Negligent Homicide as charged in the count. [emphases added]

[<http://www.courts.state.ny.us/cji/125/125-10.pdf>.]

In New York, the potential penalty for second-degree manslaughter and criminally negligent homicide range from probation to two years imprisonment. A conviction for second-degree murder with depraved indifference to human life carries 25 years to life in prison. First-degree manslaughter (intent to harm but not to kill) carries a maximum sentence of 12 1/2 to 25 years and a minimum of five years. The penalty for first-degree murder is 25 years to life, with the death sentence possible when particularly heinous circumstances apply.

There is precedent for prosecution of public officials under these homicide statutes. Most of those charged have been policemen who allegedly killed prisoners in custody or other members of the public, either in motor vehicle accidents or with firearms. However, trial juries have been notoriously reluctant to convict police officers, even when prosecutors are willing to press charges. [see footnote 1]

3. STANDARDS OF PROOF

A. Criminal Negligence Distinguished from Civil Liability

In the event that criminal prosecution of US officials flows from the 9/11 attack, there will likely be civil litigation. Such suits could be against individuals, such as intelligence officers and decision-makers of the agencies involved in surveilling the hijackers, or against the agencies themselves.

Prior to 9/11, the intelligence community scarcely dreamed of criminal penalties resulting from loss of life caused by errors of judgment or management of an operation. The criminal prosecution of NSC and CTC commanders, the Central Intelligence Agency and the Federal Bureau of Investigation could change that assumption of immunity from consequence. Indeed, the criminal conviction of ranking national security advisors and intelligence officials will result not only in penalties involving jail and substantial fines, but may also result in unlimited civil liability under the Racketeering Influenced Corrupt Organizations Act (RICO), and the awarding of punitive damages in civil suits.

Government officials, particularly decision-makers, generally enjoy a degree of immunity from prosecution for acts taken in furtherance of their official duties. A military officer can't be sued by a soldier because a mistake in strategy led to the soldier's physical harm in combat. Similarly, law enforcement and foreign policy-makers enjoy a high level of qualified immunity, but not absolute immunity, from suit for actions taken pursuant to their

official duties. However, if harm results from an officer's action that violated the law or the agency's rules, that official along with the agency may be liable for civil as well as criminal penalties.

The Nature of Criminal Liability

Under the circumstances that some 3,000 lives were lost in New York, Virginia and Pennsylvania as the result of failure to control an intelligence operation, the ranking officers could bear criminal liability for their actions under general criminal statutes and departmental regulations. In addition, the Agency may be held vicariously liable for the acts of its officers and agents acting within the scope of their employment if such acts constituted a violation of agency regulations and of criminal statutes. Furthermore, Agency and Bureau directors could be held criminally liable for violation of criminal statutes if they had actual knowledge of the fact that al-Qaeda operatives were to be permitted entry into the U.S., and that this fact was subsequently hidden from FBI field office investigators seeking warrants, as appears to have happened. Finally, responsible government officials at all levels below the Oval Office can be stripped of their qualified immunity if their acts contributed to the attack and they acted to obstruct or thwart a subsequent investigation. While the President likely could not be criminally prosecuted, he would be subject to impeachment for any complicity in such a crime, before or after the fact.

Mens Rea

Under the American system of justice, criminal guilt must be preceded by a showing of criminal intent or mens rea (guilty mind). A defendant has to have a guilty or wrongful purpose, or guilty knowledge or willful negligence. Willful ignorance is generally treated as if it were willful negligence.

Basic Elements of Criminal Liability

Negligence.

The civil negligence standard of failure to use reasonable care is substantially less stringent than the definition of criminal negligence. In New York state, negligent homicide is a Class D Felony punishable by up to 30 months imprisonment. State law defines criminal negligence as follows:

A person acts with criminal negligence with respect to a result or circumstance when he fails to perceive a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that the failure to perceive constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation. [NY Penal Law Sec. 15.05]

In the prosecution of government officials for negligence for 9/11-related deaths, one would have to establish that a "substantial and unjustifiable" risk and "gross deviation" from normal standards of care took place. This would require proof of negligence above the lower standard imposed in civil litigation. Thus, criminal conviction would present, a fortiore, grounds for civil liability claims that would surely follow.

Recklessness

Negligence is an inexcusable failure to perceive a risk, while recklessness is willful disregard of risk. Reckless manslaughter is thus a more serious crime than negligent homicide, and the penalties are commensurately more severe. NY State defines reckless homicide as Second degree Manslaughter, a Class C felony punishable by up to 25 years imprisonment. Model instructions to the jury read:

MANSLAUGHTER - SECOND DEGREE (C Felony) (Reckless Homicide)

PENAL LAW 125.15 (Committed on or after Sept. 1, 1967)

The count is Manslaughter in the Second Degree.

Under our law, a person is guilty of Manslaughter in the Second Degree when that person recklessly causes the death of another person. The term "recklessly" used in this definition has its own special meaning in our law. I will now

give you
the meaning of that term.

1 A person acts RECKLESSLY with respect to a death when that person engages in conduct which creates or contributes to a substantial and unjustifiable risk that another person's death will occur, and when he or she is aware of and consciously disregards that risk, and when that risk is of such nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

2 [NOTE: Where there is evidence of voluntary intoxication on the part of the defendant, add: A person also acts recklessly when he or she creates such a risk but is unaware of that risk solely by reason of his or her voluntary intoxication.

3] In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, both of the following two elements: 1. That on or about (date) , in the county of (county) , the defendant, (defendant's name) , caused the death of (specify) ; and

2. That the defendant did so recklessly. Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Manslaughter in the Second Degree as charged in the count. On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Manslaughter in the Second Degree as charged in the count.

Knowing conduct

First Degree Murder is an intentional crime that involves mens rea, or guilty mind. Not all homicides, however, involve a knowing intention to kill. Second-degree murder may instead entail a depraved indifference to risks that threaten human life. To sustain a charge of reckless endangerment, it is not necessary that the defendant know that the act is illegal when it is committed.

Furthermore - and quite important to our discussion of the culpability of senior officials in the crimes of 9/11 -- willful ignorance may be considered the equivalent of knowledge. A senior official may "look the other way" while subordinates commit crimes. That senior official, while he has personally avoided knowing the details of the crime, may nonetheless be held equally responsible if the evidence shows he deliberately ignored the criminal behaviors of employees or agents or consciously avoided learning about them.

Causation

Certain homicide statutes reference charges where a defendant's conduct is alleged to be a "cause of death" of another, but the defendant did not do the killing, and instead either ordered or facilitated the crime. Under these circumstances of indirect responsibility, New York state courts have adopted a model instruction to jury to define the term:

". . . a person's conduct is a sufficiently direct cause of death when the conduct is an actual contributory cause of the death, and when the death was a reasonably foreseeable result of the conduct . . . a person's conduct is an actual contributory cause of the death of another when that conduct forged a link in the chain of causes which actually brought about the death - in other words, when the conduct set in motion or continued in motion the events which ultimately resulted in the death . . ."

Furthermore, the model instructions advise, "it does not matter that such conduct was not the sole cause of the death . . . [I]t is not required that the death was the inevitable result or even the most likely result. Where the 'intent to cause death' is not the culpable mental state . . . it is not required that the actor have intended to cause the death."

Under these rules, it is apparent that the conduct of high U.S. officials could be held to have been the "cause of death" of some 3,000 victims of the 9/11 attack with a showing of one or several of the following charges:

- 1) willful failure to supervise intelligence officials which permitted

the 9/11 hijackers to enter the country without adequate safeguards to disrupt their conspiracy prior to fruition;

2) willful failure to provide FBI field investigators with information known about the intentions of hijackers obtained from surveillance conducted against the participants at the Malaysia al-Qaeda summit and thereafter;

3) willful failure to provide for adequate air defense security for probable targets after it was apparent that several of these subjects had eluded surveillance and could not be located after their entry into the U.S.

Recklessness and malice aforethought is further indicated by the failure of investigators prior to the late summer, 2001 to obtain legal warrants for the surveillance of suspected terrorists earlier known to have entered the United States.

Agency and Corporate Liability

Corporations have "vicarious liability" for the wrongs of directors, officers or employees who commit crimes within the scope of their duties. Government agencies also assume liability for criminal negligence. If corporate policies or procedures condone the illegal or negligent conduct of employees, the organization itself may be directly liable. Theoretically, a federal agency may even be found criminally and civilly liable under the Racketeering Influenced Corrupt Organizations Act (RICO) for condoning a pattern and practice of illegal behavior. [see footnote 2] [See, "After 9/11: Will the Victims Ever be Fully Compensated?" 9/11 Civil Suits]

Civil suits may also be pressed against federal agencies under the Federal Torts Claims Act (FTCA) within two years of an injury resulting from the malfeasance or negligence of officials. In meritorious FTCA claims, the federal government may waive its sovereign immunity, and substitute the agency for the individual officials responsible. The government then has the opportunity to settle or litigate claims for monetary damages.

FOOTNOTES:

[]According to Amnesty International: " . . . although there have been dozens of deaths in police custody in disputed circumstances during the past 20 years, and a number of officers have been prosecuted, at the time of writing only one NYC police officer since 1977 had been convicted of a homicide committed while on duty." "Police Brutality and Excessive Force by the NY City Police Department"
<http://www.amnestyusa.org/rightsforall/police/nypd/nypd-03b.html>.

[2] 3. RICO Civil Actions
18 U.S. Code, Section 1962(c), The Racketeer Influenced and Corrupt Organizations Act (RICO) provides victims an avenue for private litigants to collect treble damages for wrongful death, personal injury, and property losses committed by organized crime groups (including, presumably, terrorist groups) that engage in a pattern of crimes affecting interstate or international commerce. RICO actions have been brought successfully against a wide variety of businesses and organizations, including the Los Angeles Police Department, a major insurance company, and anti-abortion groups. In a recent decision, the Seventh Circuit Court of Appeals held that private plaintiffs can obtain injunctive relief as well as treble damages under RICO. It is notable that the first law suit filed after the World Trade Center attacks was filed in the U.S. District Court for the Southern District of New York seeking incidental damages under the civil RICO statute.

(See also... UQ Wire: The Crimes Of 9/11 (Part 2).)

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