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**State and Local Prosecutors Can Take Down Bush
Think Piece**

By David Swanson

BlackCommentator.com Guest Commentator

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Former prosecutor Vincent Bugliosi's new book "The Prosecution of George W. Bush for Murder" is not just a particularly good addition to the ten-foot high stack of rants against Bush's crimes and abuses of power. It's also an argument that state and local prosecutors have the necessary jurisdiction to try Bush for murder and for conspiracy to commit murder, at least once he's out of office.

This is not a scheme based on some harebrained theory that Bush faked the suicide of a former staffer. In fact, this scheme is based on nothing more than universally accepted facts. Bush chose to send US troops into Iraq. He did not do so in self-defense or as a last resort or under an international mandate, but rather went out of his way to concoct false motives for war and to rush its launching. By sending troops into war, Bush was knowingly and needlessly but certainly condemning some of them to death. The Iraqis who killed those soldiers in predictable and legally justifiable defense of their country fall into the legal category of "third-party innocent agent." This does not mean they are innocent, but rather that their actions do nothing to lessen the guilt of George W. Bush as murderer of those soldiers. Bugliosi calls this the "vicarious liability rule of conspiracy." Bugliosi explains:

"In other words, if Bush personally killed an American soldier, he would be guilty of murder. Under the law, he cannot immunize himself from his criminal responsibility by causing a third party to do the killing. He's still responsible. George Bush cannot sit safely in his Oval Office in Washington, D.C., while young American soldiers fighting his war are being blown to pieces by roadside bombs in Iraq, and wash his hands of

all culpability. It's not quite that easy. He could only do this if he did not take this nation into war under false pretenses. If he did, which the evidence overwhelmingly shows, he is criminally responsible for the thousands of American deaths in Iraq." In addition, Bugliosi argues, Bush could be found guilty of murder under the rule of "aiding and abetting," because he instigated the killing of American soldiers by ordering the invasion of Iraq.

Did Bush have "malice aforethought"? Yes, according to Bugliosi. We convict people of murder for driving 100 mph through a school zone and hitting a child, or for blowing up a building while unaware that someone is inside. These are cases where the murderer does not know he is committing murder but where he is reckless enough to take an unreasonable risk of doing so. In Bush's case, he absolutely knew that invading Iraq would involve US casualties, and yet he ordered the invasion, thereby acting with the intent that American soldiers be killed. Bugliosi strengthens this argument by pointing out that we often convict people of murder for accidental killings that occur in the act of committing other felonies:

"A robber, for instance, was convicted of first degree murder under the felony-murder rule where, as he was leaving the store in which he had robbed the owner, he told the owner not to say a word or he'd be harmed, and fired into the ceiling to scare the owner. The shot, after two or three ricochets, pierced the head of the owner, killing him. In fact, the felony-murder rule applies even where the defendant is not the killer! There have been cases where the proprietor of the store fired at a robber, missed him and hit and killed a customer. And the robber was convicted of first degree murder of the customer."

Bugliosi missed an opportunity here to further strengthen his case by noting that in the act of ordering the invasion of Iraq, Bush was committing a number of felonies. When Bush submitted his March 18, 2003, letter and report to the United States Congress providing reasons for attacking Iraq, he violated the federal anti-conspiracy statute, 18 U.S.C. - 371, which makes it a felony "to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose..."; and The False Statements Accountability Act of 1996, 18 U.S.C. - 1001, which makes it a felony to issue knowingly and willfully false statements to the United States Congress. Bush also committed a felony by misappropriating funds to secretly begin the invasion prior to this date.

Bugliosi notes that there is no statute of limitations for murder. Bush could be prosecuted by any future federal prosecutor who had the nerve to do so and could do so while keeping his or her job. But Bugliosi writes that a state attorney general or any district attorney in any city or county could bring a murder charge against Bush for any soldiers from that state or county who lost their lives in Iraq. And not just Bush, but Cheney, Rice, et alia. Bugliosi provides some truly talented proposals for questioning Bush in court and adds:

"I would be more than happy, if requested, to consult with any prosecutor who decides to prosecute Bush in preparation of additional cross-examination questions for him to face on the witness stand. I believe the cross-examination would be such that they'd have to carry the arrogant son of privilege off the stand on a stretcher."

I know the same offer to assist stands from former federal prosecutor Elizabeth de la Vega, author of "United States versus George W. Bush et al."

Bugliosi argues that such trials could only take place once Bush is out of office, but is uncharacteristically weak in his explanation of why. Bugliosi thinks it was a mistake to allow the Paula Jones case to take time away from Clinton's duties as president, but he clearly does not believe taking time away from Bush's duties as president could possibly harm anyone or anything. And Bugliosi cites no decisive constitutional or legal basis for preventing a prosecution from beginning while Bush is still president.

The question, in any case, is where we can find (or elect) one or two or a dozen prosecutors willing to stand up to the biggest murderer of our age? We need a project to identify the most likely combinations of prosecutors and gold star families, and work together with those families to urge prosecution. We are working on this at <http://convictbushcheney.org>

Why do I call Bush the biggest murderer of our age for a mere 4,000 murders, not counting his neglect prior to Katrina and 9-11, his exacerbation of global warming, his opposition to workplace safety standards or medical research, etc.? I have in mind, of course, the over 1 million Iraqis who have died as a result of his invasion of Iraq. Bugliosi does not see any legal case to try Bush for the murders of Iraqis, but he also openly admits that he cares more about the deaths of Americans. In addition to that disgusting confession, Bugliosi repeatedly cites the figure 100,000 as the number of Iraqi deaths, but never indicates where he came up with that number or how he ignores the fact that every serious study has placed the count above a million. Bugliosi also repeatedly claims that Bush won the 2004 election, and expresses his belief that congress members who voted to invade Iraq actually believed the White House lies about weapons. Bugliosi's is not a perfect book, but it is a brilliant one, and is as good a one as any to offer to anyone not yet devoted to putting Bush and Cheney behind bars.

Bugliosi concludes his book with an excellent analysis of what happened on 9-11 and how the media and the public have responded. His account of how often Bush was warned prior to 9-11 and how little (nothing) he did in response is very well done, but includes at least one glaring error (at least glaring to those of us privileged to get our own briefings on these things from Ray McGovern). George Tenet did indeed, as Bugliosi recounts, tell the 9-11 Commission on April 14, 2004 that he did not speak with Bush for the whole month of August, 2001. But a CIA spokesperson called reporters that same evening to claim that Tenet had "misspoken" and that Tenet had briefed Bush on August 17th and 31st. In his book, *At the Center of the Storm*, (2007) Tenet refers to the August 17th meeting as a follow-up to the August 6th memo on Bin Laden. A White House press release suggests that Tenet was also in Crawford a week later, on August 24th. President Bush, addressing a group of visitors to Crawford on August 25, told them: "George Tenet and I, yesterday, we piled in the new nominees for the Chairman of the Joint Chiefs, the Vice Chairman and their wives and went right up the canyon."

Bugliosi notes in his book that more evidence will continue to pile up. His claim, like so many others', is only that the evidence he has compiled is more than sufficient to put

Bush away for life. On that point, if you read this book, I think you'll agree there can be no doubt whatsoever.


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