

# The Events of 11 September 2001 and the Right to the Truth

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## Abstract

On 11 September 2001 approximately 3,000 people<sup>1</sup> were killed in the United States in what was variously designated as a terrorist attack, an act of war, or a crime against humanity. It was also a gross violation of human rights. Yet, the truth on this event remains elusive. No person has been convicted for this crime. We first outline the moral and legal foundations for the right to the truth and the obligations of states to adequately investigate (gross) human rights violations, particularly violations to the right to life. We then examine whether the investigation of the events of September 2001 has been effective in terms of criteria developed by jurisprudence, such as the promptness, thoroughness, impartiality, independence and transparency of the investigation. The surprising conclusions should prove a veritable challenge for all those who wish to uphold human rights and the rule of law.

## Introduction

Since 11 September 2001 the human rights community has faced a new challenge, namely the assault on individual freedoms in Western democracies in the name of the "war on terror". Every day governments introduce new challenges to individual freedoms, including police powers to monitor private communications, mass surveillance methods and broadened search and detention powers.<sup>2</sup> While the human rights community has acted diligently and courageously in exposing this assault on individual liberties and the violations ensuing from, or justified by, the "war on terror", others have questioned the very justification of that "war".<sup>3</sup> Shortly after the events a new constituency emerged, particularly in the United States<sup>4</sup> and more recently in Western Europe,<sup>5</sup> which questions the official account and demands that the truth be established on what actually happened on 11 September 2001 (hereafter "9/11"). Most of those who participate in this struggle are not familiar with human rights concepts but act intuitively in the spirit of human rights values. They represent natural allies of the human rights community and a formidable potential of good will to the furtherance of the human rights cause.

The events of 9/11 have been generally considered as a terrorist act or as an act of war. Yet, from the perspective of human rights, they constitute gross violations of the right to life or

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<sup>1</sup> 11 September 2001 victims' database. Available at <http://www.september11victims.com/september11victims>

<sup>2</sup> Collection of writings and documents under the heading 'The Police State as the emerging form of governance'. Available at <http://www.aldeilis.net/english/index.php?option=content&task=section&id=21&Itemid=135>

<sup>3</sup> Russel Dean Covey, 'Why 9/11 may or may not constitute war, war crimes', 25 September 2001. Available at

[http://www.aldeilis.net/english/index.php?option=com\\_content&task=view&id=1045&Itemid=141](http://www.aldeilis.net/english/index.php?option=com_content&task=view&id=1045&Itemid=141);

Rohan Pearce, 'Is al Qaeda really a "threat"?' , *Green Left Weekly (UK)*, 10 September 2003; Elias Davidsson, 'The "war on terrorism" - a double fraud on humanity', June 2006. Available at

<http://www.aldeilis.net/english/images/stories/911/waronterror2.pdf>

<sup>4</sup> See <http://en.wikipedia.org/wiki/Truther>

<sup>5</sup> See [www.911truth.eu](http://www.911truth.eu)

even a crime against humanity. It is the duty of states to investigate such violations, establish the truth on these violations and bring those responsible to justice. Impunity arises from a failure by States to meet their obligations to investigate violations.<sup>6</sup> To this date, no person has been brought to trial for complicity in the mass murder of 9/11.<sup>7</sup> This fact alone warrants an examination of the investigation of these gross violations. Thanks to the jurisprudence developed by human rights courts, and particularly that of the European Court of Human Rights (ECHR) and of the Inter-American Court of Human Rights (IACtHR), standards of adequacy permit the assessment of that investigation.

## 1. The right to the Truth as a Democratic Right

The right to the truth regarding the circumstances in which offences against the public order and human rights have been committed is linked to the principle of democracy. The fact that a modern state possesses vast powers, including a monopoly on the use of force to repress crime and enforce the law, requires the existence of effective safeguards against potential abuse of state power. Accountability, of which the transparency of official conduct is an essential feature, aims to safeguard the public against arbitrary rule and the potential for corrupt and unlawful practices by public officials. Thus, the right to the truth, along the right to public trials and the right of access to government information, may be regarded as three types of accountability rights in a democratic society.

Although international human rights instruments do not explicitly refer to the right to the truth, this right has been referred to by human rights courts and in documents adopted by various bodies of the United Nations.<sup>8</sup> This right is also regarded as implicit in existing provisions of human rights treaties,<sup>9</sup> such as Article 8, 11, 14 and 25 of the American Convention of Human Rights.<sup>10</sup>

In 2005, the UN Commission on Human Rights (UNCHR) adopted an Updated Set of principles to combat impunity. The first subset of principles is entitled the Right to Know and includes the following principles<sup>11</sup>:

*Principle 2: The inalienable right to the truth*

Every people has the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes. Full and effective

<sup>6</sup> Updated Set of principles for the protection and promotion of human rights through action to combat impunity, *Commission on Human Rights*, 8 February 2005, UN Doc. No. E/CN.4/2005/102/Add.1, Principle I: General Obligations.

<sup>7</sup> One person, Zacarias Moussaoui, has been tried by a U.S. court in relation to 9/11. He was not, however, charged as accomplice to the crime. He was accused to have known about the plans for 9/11 and not reporting his alleged knowledge to the authorities after he was arrested a few weeks before 9/11. There is no evidence, however, that he possessed such foreknowledge. A collection of articles on Moussaoui's trial can be found at:

[http://www.aldeilis.net/english/index.php?option=com\\_content&view=category&id=117:court-case-moussaoui&Itemid=333&layout=default](http://www.aldeilis.net/english/index.php?option=com_content&view=category&id=117:court-case-moussaoui&Itemid=333&layout=default)

<sup>8</sup> For an overview of references to the right to the truth, see Yasmin Naqvi, 'The right to the truth in international law: fact or fiction?' (2006) 88 *International Review of the Red Cross* 862

<sup>9</sup> *Bámaca-Velásquez v Guatemala*, IACtHR, Judgment of 25 November 2000, Series C 70, Separate Concurring Opinion of Judge Hernán Salgado Pesantes

<sup>10</sup> American Convention of Human Rights, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, entered into force July 18, 1978

<sup>11</sup> Updated Set of principles to combat impunity, supra n. 6

exercise of the right to the truth provides a vital safeguard against the recurrence of violations ...

*Principle 5: Guarantees to give effect to the right to know*

States must take appropriate action, including measures necessary to ensure the independent and effective operation of the judiciary, to give effect to the right to know. Appropriate measures to ensure this right may include non-judicial processes that complement the role of the judiciary. Societies that have experienced heinous crimes perpetrated on a massive or systematic basis may benefit in particular from the creation of a truth commission or other commission of inquiry to establish the facts surrounding those violations so that the truth may be ascertained and to prevent the disappearance of evidence. Regardless of whether a State establishes such a body, it must ensure the preservation of, and access to, archives concerning violations of human rights and humanitarian law.

The above principles reflect states' recognition of societies' right to know the truth about past grave violations to human rights. The UNCHR also requested that the Office of the High Commissioner for Human Rights prepare a study on the right to the truth, "including information on the basis, scope, and content of the right under international law".<sup>12</sup> The repeated invocation of this right by UN human rights organs and regional human rights courts indicates that it serves a purpose no other concept has yet fulfilled.

Truth is – philosophically – a tricky concept. In the present context, truth should be regarded as a social value rather than a metaphysical idea. The present study is based on the premise that the right to the truth is neither a fictional notion nor a frivolous demand, but a procedural and, arguably, legal right that serves an unique social purpose, particularly in relation to past gross violations of human rights.

## **2. The Right to the Truth as a Form of Individual Reparation**

According to Article 2(3) of the International Covenant on Civil and Political Rights (ICCPR), victims of human rights violations are entitled to an "effective remedy" including the right to learn the truth on these violations.

The United Nations adopted in 1989 the U.N. Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions<sup>13</sup> (UN Principles) and in 1991 a Manual on the implementation of these principles.<sup>14</sup> According to paragraph 9 of the UN Principles, "the broad purpose of an inquiry is to discover the truth about the events leading to the suspicious death of a victim."

In 2005, the UN General Assembly affirmed the duty of states to provide victims of human rights violations with "full and effective reparation ...which include[s] ...where applicable ...[v]erification of the facts and full and public disclosure of the truth" ...and "[i]nclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law training and in educational material at all levels."<sup>15</sup>

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<sup>12</sup> Cited by Naqvi, *supra* n. 7 at 248

<sup>13</sup> ECOSOC Res. 1989/65, UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, 24 May 1989

<sup>14</sup> Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, U.N. Doc. E/ST/CSDHA/12 (1991)

<sup>15</sup> GA Res. 60/147, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and

The Inter-American Court for the Protection of Human Rights (IACtHR) has through its jurisprudence given substance to the concept of the right to the truth: "[T]he right to the truth is subsumed in the right of the victim or his next of kin to obtain clarification of the events that violated human rights and the corresponding responsibilities from the competent organs of the State, through the investigation and prosecution that are established in Articles 8 and 25 of the Convention."<sup>16</sup> In 1998 the Inter-American Commission on Human Rights has for first time recognized that the right to the truth belongs to members of society at large as well as to the families of victims of human rights violations.<sup>17</sup>

### 3. The Duty to Investigate

In order to ascertain the truth, a human rights violation must be investigated. The Basic Principles (2005) set out the specific obligation to investigate violations in the context of the overall obligation to ensure respect for human rights: "The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law ...includes, *inter alia*, the duty to ...[i]nvestigate violations effectively, promptly, thoroughly and impartially and, where appropriate, take action against those allegedly responsible in accordance with domestic and international law."<sup>18</sup>

Before the adoption of the Basic Principles (2005), the UN Human Rights Committee (UNHRC), in its General Comment no. 31, pointed out that states are under the duty to protect individuals subject to their jurisdiction

not just against violations of the [ICCPR] by [their] agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights ... There may be circumstances in which a failure to ensure Covenant rights ...would give rise to violations by States Parties of those rights, as a result of States Parties' permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.<sup>19</sup>

The "Minnesota Protocol", which comprises Part III of the United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions,<sup>20</sup> lists desirable procedures of an inquiry into the circumstances surrounding a suspicious death. These include, *inter alia*, specific tasks to be accomplished at the crime scene, the processing of evidence, avenues of investigation and identification and interviews of witnesses. The "Minnesota Protocol" also provides a guideline for the establishment of independent commissions of inquiry and the performance of autopsies.

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Serious Violations of International Humanitarian Law, 16 December 2005, Articles 18 and 22

<sup>16</sup> *Chumbipuma Aguirre et al. v Peru* (Barrios Altos Case), IACtHR, Judgment of 14 March 2001, para. 48

<sup>17</sup> The Right to the Truth. Office of the Special Rapporteur for Freedom of Expression, IACHR, Available at <http://www.cidh.oas.org/Relatoria/showarticle.asp?artID=156&IID=1>

<sup>18</sup> UNCHR Res. 2005/35, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, U.N. Doc. E/CN.4/2005/L.10/Add.11 (19 April 2005), Article 3; also GA Res. 60/147, *supra* n. 14

<sup>19</sup> UNHRC, General Comment No. 31. Nature of the General Legal Obligation Imposed on States Parties to the Covenant. UN Doc. CCPR/C/21/Rev.1/Add.13 (26 May 2004) para. 8

<sup>20</sup> United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, Part III, 'Minnesota Protocol', U.N. Doc. E/ST/CSDHA/. 12 (1991)

While states possess wide discretionary powers to decide when an investigation of a violation of human rights is warranted and how the investigation is conducted, the principle of good faith provides, along with other criteria, a tool to gauge the adequacy of such an investigation.

#### 4. Standards of Investigation

While states are under the obligation to investigate violations of human rights and international humanitarian law, they sometimes attempt to avoid investigations, which may embarrass or implicate high officials. In order to cover up official complicity states sometimes stage an investigation designed to fail. The IACtHR explicitly warned against this possibility: "[T]he State has the duty to commence *ex officio* and without delay, a serious, fair, and effective investigation which is not undertaken as a mere formality condemned in advance to be fruitless."<sup>21</sup>

The notion that failure to *effectively* investigate arbitrary killings could itself be a violation of human rights has been confirmed in numerous judgments by the ECHR. In these judgments the court addressed five criteria that permit the evaluation of the effectiveness of an investigation, namely: promptness, thoroughness, impartiality, independence and transparency.

##### *(i) Effectiveness of investigations*

The requirement of effectiveness of investigations has been addressed by the ECHR in numerous court judgments. A review of these judgments reveals that the Court used the expression "effective investigation" to mean the adequacy of an investigation. The Court considered that "the nature and degree of scrutiny which satisfies the minimum threshold of [an] investigation's effectiveness depends on the circumstances of the particular case. It must be assessed on the basis of all relevant facts and with regard to the practical realities of investigation work. It is not possible to reduce the variety of situations which might occur to a bare check-list of acts of investigation or other simplified criteria."<sup>22</sup> In determining whether effective investigations of alleged violations of human rights had taken place, the Court examined whether these investigations had been prompt, thorough, impartial, independent and sufficiently transparent.

While human rights courts generally avoid implying that ineffective investigations of human rights violations represent deliberate obstruction or a cover-up by the state, the ECHR expressed its view in one case that "the astonishing ineffectiveness of the prosecuting authorities ...can only be qualified as acquiescence in the events".<sup>23</sup>

The ECHR has also considered that a violation by a government of the right to life can be inferred from the failure by the government to provide "a plausible explanation ...as to the reasons why indispensable acts of investigation have not been performed."<sup>24</sup>

##### *(ii) Promptness of investigations*

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<sup>21</sup> *Ximenes-Lopes v Brazil*, IACtHR, Judgment of 4 July 2006, para. 148

<sup>22</sup> *Toteva v Bulgaria*, ECHR, Application no. 42027/98, Judgment of 19 May 2004, para. 80

<sup>23</sup> *Musayev and Others v Russia*, ECHR, Applications nos. 57941/00, 58699/00 and 60403/00, Judgment of 26 July 2007, para. 164

<sup>24</sup> *Toteva*, supra n. 21, para. 82

The duty of an investigation's promptness had also been addressed by the ECHR in numerous judgments. The necessity of promptly investigating the use of lethal force "may generally be regarded as essential in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts."<sup>25</sup> The passage of time "will inevitably erode the amount and quality of the evidence available and the appearance of a lack of diligence will cast doubt on the good faith of the investigative efforts, as well as drag out the ordeal for the members of the family."<sup>26</sup> A substantial delay in the investigation may constitute "a breach of the obligation to exercise exemplary diligence and promptness."<sup>27</sup>

### ***(iii) Thoroughness of investigations***

According to paragraph 9 of the UN Principles:

There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases in which complaints by relatives or other reliable reports suggest unnatural death in the above circumstances.... The Purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice, which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses...

In the case-law of the ECHR we find that that the lack of thoroughness (or effectiveness) was *inferred* from omissions by the state, such as failure by the investigating authorities to take reasonable steps to secure evidence;<sup>28</sup> ignorance of obvious evidence (failure to "connect the dots");<sup>29</sup> failure to collect all the evidence that could have clarified the sequence of events;<sup>30</sup> failure to report troubling facts;<sup>31</sup> failure to interrogate certain people or to ask certain questions in interrogations;<sup>32</sup> failure to ascertain possible eye-witnesses and failing to search for corroborating evidence;<sup>33</sup> failure to ascertain whether certain reported documents in fact existed;<sup>34</sup> failure to clarify important inconsistencies;<sup>35</sup> failure to consider alternative hypotheses for unnatural death;<sup>36</sup> lack of explanations for irregularities;<sup>37</sup> failure to preserve evidence at the scene (of the crime) and taking all relevant measurements;<sup>38</sup> and failure to inquire about motives.<sup>39</sup>

The aforementioned examples reveal the large range of means available to, and used by, states to undermine investigations into violations of the right to life.

<sup>25</sup> *Adali v Turkey*, ECHR, Application no. 38187/97, Judgment of 31 March 2005, para. 224

<sup>26</sup> *Trubnikov v Russia*, Application no. 49790/99, Judgment of 5 July 2005, para. 92

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ahmet Özkan and Others v Turkey*, ECHR, Application no. 21689/93, Judgment of 6 April 2004, para. 312

<sup>29</sup> *Ülkü Ekinci v Turkey*, ECHR, Application no. 27602/95, Judgment of 16 July 2002

<sup>30</sup> *Nachova v Bulgaria*, ECHR, Applications nos. 43577/98 and 43579/98, Judgment of 26 February 2004, para. 138

<sup>31</sup> *Ibid.*

<sup>32</sup> *Toteva, supra* n. 21, para. 79

<sup>33</sup> *Aydin v Turkey*, ECHR, Application no. 57/1996/676/866, Judgment of 25 September 1997, para. 106

<sup>34</sup> *Buldan v Turkey*, ECHR, Application no. 28298/95, Judgment of 20 April 2004, para. 86

<sup>35</sup> *Sergey Shevchenko v Ukraine*, ECHR, Application no. 32478/02, Judgment of 4 April 2006, para. 67; *Nachova, supra* n. 29, para. 140

<sup>36</sup> *Ognyanova and Choban v Bulgaria*, ECHR, Application no. 46317/99, Judgment of 23 February 2006, paras. 109-112

<sup>37</sup> *Angelova v Bulgaria*, ECHR, Application no. 38361/97, Judgment of 13 June 2002, paras. 142-145

<sup>38</sup> *Nachova supra* n. 29, para. 132

<sup>39</sup> *Adali v Turkey, supra* n. 24, para. 231

***(iv) Independence of investigations***

The UN Human Rights Committee emphasizes the need for "administrative mechanisms" to "investigate allegations of violations (...) through independent and impartial bodies."<sup>40</sup>

The UN Principles specify that

[i]n cases in which the established investigative procedures are inadequate because of a lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons, Governments shall pursue investigations through an independent commission of inquiry or similar procedure. Members of such a commission shall be chosen for their recognised impartiality, competence and independence as individuals. In particular, they shall be independent of any institution, agency or person that may be the subject of the inquiry. The commission shall have the authority to obtain all information necessary to the inquiry and shall conduct the inquiry as provided in these principles.<sup>41</sup>

Those potentially implicated in extra-legal, arbitrary or summary executions shall be removed from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as over those conducting investigations.<sup>42</sup>

The UN Principles mention particularly the necessity to ensure that those conducting the autopsy be independent from "any potentially implicated persons or organizations or entities."<sup>43</sup>

The ECHR repeatedly mentioned the necessity "for the persons responsible for and carrying out the investigation to be independent from those implicated in the events".<sup>44</sup> The Court added: "This means not only a lack of hierarchical or institutional connection but also a practical independence."<sup>45</sup>

***(v) Impartiality of investigations***

Impartiality requires that investigators examine with an open mind all relevant evidence, including evidence that contradicts their "firm conviction"<sup>46</sup> and include in the scope of their investigation the possibility of official involvement in the crime, particularly when they are put on notice about suspicious activities by official entities.<sup>47</sup> In order to ensure the impartiality of an investigation, witnesses "shall be protected from ...any ...form of intimidation"<sup>48</sup>, particularly by state officials.

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<sup>40</sup> Human Rights Committee, General Comment no. 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, 29 March 2004, para. 15(d)

<sup>41</sup> UN Principles, para. 11, (emphasis added), *supra* n. 12

<sup>42</sup> UN Principles, para. 15, *supra* n. 12

<sup>43</sup> UN Principles, para. 14, *supra* n. 12

<sup>44</sup> *Adali*, *supra* n. 24, para. 222

<sup>45</sup> *Ibid.*

<sup>46</sup> *Kaya v Turkey*, ECHR, Application no. 158/1996/777/978), Judgment of 19 February 1998, para. 90;

*Semsi Önen v Turkey*, ECHR, Application no. 22876/93, Judgment of 14 May 2002, para. 88

<sup>47</sup> *Tepe v Turkey*, ECHR, Application no. 27244/95, Judgment of 9 May 2003, paras. 179-180; *Buldan* *supra* n. 33, para. 86; *Finucane v United Kingdom*, ECHR, Application no. 29178/95, Judgment of 1 July 2003; *Kaya*, *supra* n. 45, para. 88, *Semsi Önen*, *supra* n. 45

<sup>48</sup> UN Principles, para. 15, *supra* n. 12

***(vi) Transparency of investigations***

According to paragraph 16 of the UN Principles "[f]amilies of the deceased and their legal representatives shall be informed of, and have access to, any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence."<sup>49</sup>

The reporting requirements of an investigation are also spelled out in the UN Principles:

A written report shall be made within a reasonable period of time on the methods and findings of such investigations. The report shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. The report shall also describe in detail specific events that were found to have occurred and the evidence upon which such findings were based, and list the names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection. The Government shall, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it.<sup>50</sup>

The ECHR explicitly related the need for transparency of investigations to the democratic right of official accountability:

Remedies must be effective in practice, not just in theory, with a sufficient element of public scrutiny to ensure true accountability. In particular, alleged violations of the right to life deserve the most careful scrutiny. Where events lie wholly or largely within exclusive knowledge of the authorities...strong presumptions of fact will arise in respect of injuries and death, which occur. Indeed, the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation.<sup>51</sup>

Here is one example of the reasoning by the ECHR regarding the lack of transparency in an investigation:

The Court notes ...that throughout the investigation the applicant and the rest of the family were entirely excluded from the proceedings. Contrary to the usual practice under national law, they were not granted the official status of victims in criminal proceedings, a procedural role which would have entitled them to intervene during the course of the investigation. Even assuming that the family's participation could have been secured otherwise, this was not the case here. The terms of their access to the file were not defined. They were never informed or consulted about any proposed evidence or witnesses, including the appointment of posthumous psychological and psychiatric experts, so they could not take part in instructing the experts. The applicant did not receive any information about the progress of the investigation and, when it was discontinued on 10 October 2002, he was only notified five months later.<sup>52</sup>

We will now proceed and examine whether and to what extent the United States government fulfilled its international obligations to investigate the gross violations of human rights committed on 11 September 2001 and establish the truth on these events.

## **5. The events of 11 September 2001 as a gross violation of the right to life**

<sup>49</sup> UN Principles, para. 16, *supra* n. 12

<sup>50</sup> UN Principles, para. 17, *supra* n. 12

<sup>51</sup> *Hugh Jordan v The United Kingdom*, ECHR, Application No. 24746/94, Judgment, 4 May 2001, para. 109

<sup>52</sup> *Trubnikov*, *supra* n. 25, para. 93

The events of 11 September 2001 ("9/11") were a gross violation of the right to life of approximately 3,000 human beings. It follows that the United States, as state party to the International Covenant of Civil and Political Rights, is under the obligation to adequately investigate this gross violation and secure the prosecution and punishment of the violators. In order to conform to this obligation, the investigation of such a gross violation must be carried promptly, effectively, thoroughly, impartially and with an adequate degree of transparency. The expected goals of a murder investigation is (a) to positively identify the victims; (b) to determine the manner, cause, location and time of death; and (c) to identify those responsible for the death, including their accomplices.

In the following sections we examine the investigation of this gross violation of human rights. In order not to encumber the terminology, we will in this section refer to the events of 9/11 as a crime.

It is true that violations by the United States of human rights treaties to which it is party, such as the failure to investigate violations committed within its jurisdiction, are not enforceable against the United States in any international court. The lack of international enforcement does not, however, void the international responsibility of the United States for its violations of obligations under international law<sup>53</sup> or its moral responsibility to establish the truth on human rights violations.

#### *Terminology*

- (1) When referring to the National Commission on Terrorist Attacks Upon the United States<sup>54</sup>, we will use the shortcut "the 9/11 Commission".
- (2) When referring to the persons designated by the US authorities as the perpetrators of the crime of 9/11, we will designate them as the "suspects" because their guilt has not been formally established.

## **6. Undisputed Facts and the Government Account on 9/11**

On September 11, 2001, the entire world witnessed on television the impact of an aircraft crashing on the South Tower of the World Trade Center in New York, the burning of the Twin Towers, their subsequent disintegration and the sequels of explosions at the Pentagon and near Shanksville, Pennsylvania. Television and other media provided non-stop coverage about rescue efforts and presented live testimonies of survivors, eyewitnesses, rescue workers, fire fighters and law enforcement personnel. In addition to what was shown live on television, numerous people witnessed the events.

It was logical to conclude after seeing a second aircraft impacting the World Trade Center that this was no accident, but a deliberate attack aimed to destroy and kill.

Approximately 20 minutes after the apparent aircraft crash on the South Tower of the World Trade Center, before anyone expected further attacks, President George W. Bush emerged from a school class in Florida where he listened calmly to children read a story about a pet

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<sup>53</sup> Article 2 of the Draft articles on Responsibility of States for internationally wrongful acts, adopted by the International Law Commission at its fifty-third session (2001). Available at

[http://untreaty.un.org/ilc/texts/instruments/english/draft%20articles/9\\_6\\_2001.pdf](http://untreaty.un.org/ilc/texts/instruments/english/draft%20articles/9_6_2001.pdf)

<sup>54</sup> Available at <http://www.9-11commission.gov/>

goat, and announced that the United States was under attack.<sup>55</sup> In his TV address he said: "today we've had a national tragedy. Two airplanes have crashed into the World Trade Centre in an apparent terrorist attack on our country."<sup>56</sup> Twenty-four hours later the US Congress declared unanimously:

- (a) That the events of the previous day had been "attacks against" the United States;
- (b) That terrorists had "hijacked and destroyed" four civilian aircraft;
- (c) That the attacks "destroyed both towers of the World Trade Center"; and
- (d) That the attacks clearly were intended "to intimidate our Nation and weaken its resolve."<sup>57</sup>

The evidence available to the Congress at that time about the manner in which the crime had been committed was hardly sufficient for the above findings, and did not appear sufficiently reliable to allow the conclusion to be drawn that foreign terrorists had been responsible for the crime.<sup>58</sup>

Mass media published from the first hour horrid details about the events – partly based on leaks from unidentified public and airline officials – and speculative theories about the identities of the perpetrators and their motives. The official account on 9/11 was established by political leaders and the media within less than 48 hours of the attacks. This account can be summarized in a few sentences:

Nineteen Muslims boarded four aircraft in the morning of 11 September 2001. Five of them boarded flight AA11 that departed from Boston; five boarded UA175 that also departed from Boston; five boarded flight AA77 that departed from Dulles Airport, Washington, D.C.; and four boarded flight UA93 that departed from Newark International Airport. These four terrorist teams hijacked the aircraft in mid-air with knives, seized control over the aircraft and flew the aircraft into buildings, killing themselves, the passengers and the crew. They flew the aircraft designated as flight AA11 into the North Tower, flight UA175 into the South Tower, flight AA77 into the Pentagon and attempted to crash flight UA93 into the White House but did not succeed to carry out their plan due to the uprising of the passengers. The aircraft then crashed near Shanksville, Pennsylvania. The hijackers were swiftly identified as having links to al Qaeda. Osama bin Laden later admitted to have personally selected them for these specific attacks.

## 7. Did the US Government Seek to Establish the Truth on 9/11?

On 12 September 2001 Attorney General John Ashcroft announced that the Department of Justice "has undertaken perhaps the most massive and intensive investigation ever conducted in this country."<sup>59</sup> On the following day, FBI Director Robert Mueller promised: "We will

<sup>55</sup> See [http://en.wikipedia.org/wiki/The\\_Pet\\_Goat](http://en.wikipedia.org/wiki/The_Pet_Goat)

<sup>56</sup> CNN, Transcript of George W. Bush's address to the nation. Available at <http://transcripts.cnn.com/TRANSCRIPTS/0109/11/bn.02.html>

<sup>57</sup> Joint Resolution 61 (by the Senate and House of Representatives), 12 September 2001. Available at [http://www.house.gov/ryan/press\\_releases/2001pressreleases/HJRES61.html](http://www.house.gov/ryan/press_releases/2001pressreleases/HJRES61.html)

<sup>58</sup> This formulation echoes *Tanrikulu v Turkey*, ECHR, Application no. 23763/94, Judgment of 8 July 1999, para. 108

<sup>59</sup> John Ashcroft, Media Briefing, 12 September 2001. Available at [http://www.yale.edu/lawweb/avalon/sept\\_11/ashcroft\\_briefing01.htm](http://www.yale.edu/lawweb/avalon/sept_11/ashcroft_briefing01.htm)

leave no stone unturned in our quest to find those responsible and bring those individuals to justice".<sup>60</sup>

Yet, while announcing a massive investigation, Attorney General Ashcroft added that the investigation was not FBI's priority: The main task of the FBI, he said, was to "stop another attack".<sup>61</sup> In the same morning White House Press Secretary Ari Fleischer announced – citing undisclosed intelligence sources – that the risks of another attack were "significantly reduced", because "the perpetrators have executed their plan".<sup>62</sup>

On 9 October 2001 the New York Times reported that John Ashcroft and Robert Mueller had "ordered [FBI] agents to drop their investigation of the attacks or any other assignment any time they learn of a threat or lead that might suggest a future attack." A law enforcement official, speaking on condition of anonymity, said to the paper: "The investigative staff has to be made to understand that we're not trying to solve a crime now."<sup>63</sup>

Asked in court to tell "what steps the FBI and the PENTTBOM<sup>64</sup> squad took to investigate the September 11 attacks", FBI Special Agent James M. Fitzgerald answered: "In general steps, the FBI as well as the PENTTBOM squad obtained financial documents, bank records, e-mail accounts, hard drives from computers to review those, post office box information, car rental information, things of that nature, to attempt to determine – to determine the extent of the contacts of the hijackers when they were in the United States and the activities that they performed."<sup>65</sup> His answer confirms that the investigation did not focus on what actually happened on the tragic day.

Shortly after 9/11, the Congress established a compensation mechanism for victims' families,<sup>66</sup> who, in order to apply for compensation, had to sign away their "right to file a civil action ...in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001."<sup>67</sup> The ostensible intent of this provision was to

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<sup>60</sup> Dan Eggen, 'FBI Launches Massive Manhunt', *Washington Post*, 13 September 2001. Cached at <http://nucnews.net/nucnews/2001nn/0109nn/010913nn.htm#510>

<sup>61</sup> Bob Woodward and Dan Balz, 'We Will Rally the World' [A review of the events of 12 September 2001], *Washington Post*, 28 January 2002. Available at <http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A46879-2002Jan27&notFound=true>, mirrored at:

[http://www.aldeilis.net/english/index.php?option=com\\_content&task=view&id=1604&Itemid=107](http://www.aldeilis.net/english/index.php?option=com_content&task=view&id=1604&Itemid=107)

<sup>62</sup> Ari Fleischer, White House Morning Briefing, 12 September 2001, 9:57 AM. The transcript of this press briefing was removed from the White House website. Cached at: [http://www.aldeilis.net/english/index.php?option=com\\_content&task=view&id=464&Itemid=107](http://www.aldeilis.net/english/index.php?option=com_content&task=view&id=464&Itemid=107)

<sup>63</sup> Philip Shenon and David Johnston, 'F.B.I. Shifts Focus to Try to Avert Any More Attacks', *New York Times*, 9 October 2001. Available at <http://www.nytimes.com/2001/10/09/national/09INQU.html>, mirrored at <http://www.aldeilis.net/aldeilis/index.php?option=content&task=view&id=346&Itemid=107>

<sup>64</sup> PENTTBOM was the acronym given by the FBI to the 9/11 investigation.

<sup>65</sup> *USA v Zacarias Moussaoui*, Transcript of Jury Trial, 7 March 2006, 10:00 AM, p. 36. Available at <http://cryptome.org/usa-v-zm-030706-01.htm>

<sup>66</sup> Title IV of [Act of Congress] HR 2926 To Preserve the Continued Viability of the United States Air Transportation System, 22 September 2001. Available at [http://www.yale.edu/lawweb/avalon/sept\\_11/hr2926.htm](http://www.yale.edu/lawweb/avalon/sept_11/hr2926.htm)

<sup>67</sup> Ibid. Title IV, Section 405 (c) (3)

protect the airlines against legal suits by victims' families, but an intended or unintended side-effect was to prevent victims' families from using court discovery procedures in their quest for the truth.<sup>68</sup>

While "investigations into past disasters and attacks such as Pearl Harbor, the Titanic, the assassination of President Kennedy and the Shuttle Challenger explosion were established in less than 10 days",<sup>69</sup> President Bush opposed a public investigation of 9/11. Due to pressure by victims' families, supported by members of Congress, he finally accepted after 411 days to form a National Commission of Inquiry. It is, however, the duty of a government to search for the truth on its own. This duty does not depend "on the procedural initiative of the victim or his next of kin."<sup>70</sup> On 15 November 2002 the U.S. Congress approved legislation creating the National Commission on Terrorist Attacks Upon the United States mandated to "examine and report on the facts and causes relating to the September 11th terrorist attacks" and "make a full and complete accounting of the circumstances surrounding the attacks." President Bush signed it into law on 27 November 2002. The very title of the Commission set its course of inquiry to conform with the fact determined by Congress on September 12, 2001, namely that the events of 9/11 were an attack *from outside* the United States.

The Commission was initially accorded \$3 million, a derisory sum in comparison to the \$40 million price of the Starr investigation<sup>71</sup> or the \$112 million spent by NASA to support the investigation of the Columbia space shuttle tragedy in which seven people died.<sup>72</sup> When asked for an additional \$8 million for the 9/11 Commission's work, President Bush initially refused the request.<sup>73</sup> Most of its members had a conflict of interest.<sup>74</sup> The Commission's Executive Director, Philip D. Zelikow, hand-picked by President Bush, had huge conflicts of interest that prompted the Family Steering Committee (a group of victims' families) to repeatedly call for his removal.<sup>75</sup>

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<sup>68</sup> Joe Taglieri, '9-11 Lawsuits: Saudis, Airlines, Bush Face Litigation', *From the Wilderness*, 27 August 2002. Available at [http://www.fromthewilderness.com/free/ww3/082702\\_lawsuits.html](http://www.fromthewilderness.com/free/ww3/082702_lawsuits.html); also Walter Gilberti, 'Bush administration moves to stifle discovery in 9/11 lawsuits', *World Socialist Web Site*, 2 August 2002. Available at <http://www.wsws.org/articles/2002/aug2002/bush-a02.shtml>

<sup>69</sup> Citizens critique of flawed 9/11 Commission process, 23 July 2004. Available at <http://www.911citizenswatch.org/modules.php?op=modload&name=News&file=article&sid=353>

<sup>70</sup> *The Ituango Massacres v Colombia*, Inter-American Court of Human Rights, Judgment of 1 July 2006, para. 296

<sup>71</sup> Terry Frieden, 'Price tag for Starr investigation: \$40 million plus', *CNN*, 1 February 1999

<sup>72</sup> Paul Recer, 'NASA: Columbia Cleanup Cost Nears \$400M', *NewsDay.com*, 11 September 2003, at [http://www.newsday.com/news/science/wire/sns-ap-shuttle-investigation\\_0.7895931.story](http://www.newsday.com/news/science/wire/sns-ap-shuttle-investigation_0.7895931.story)

<sup>73</sup> Cited by Griffin, *The 9/11 Commission Report: Omissions and Distortions*, (Northampton: Olive Branch Press, 2005), p. 284, n. 12.

<sup>74</sup> 9-11 Research, *The Kean Commission: The Official Commission Avoids the Core Issues*. Available at <http://911research.wtc7.net/post911/commission/index.html>; 'Conflicts Of Interest On Sept. 11 Panel? 6 Of 10 Panel Members Allegedly Have Ties To Airline Industry', *CBS News*, 5 March 2003. Available at <http://www.cbsnews.com/stories/2003/03/05/eveningnews/main542868.shtml>

<sup>75</sup> Griffin, *supra* n. 74, at 8

Assigning a low priority to the 9/11 investigation, offering generous<sup>76</sup> compensation to victims' families on the condition that they will not seize the courts, efforts to prevent a public inquiry of 9/11 and establishing a Commission of Inquiry "predestined to be ineffective"<sup>77</sup>, were all indications that the US government did not want the American people to know the truth about the events of 9/11.

## 8. Was the 9/11 Investigation Thorough?

In order to be regarded as thorough according to the UN Principles mentioned in Part I, a murder investigation should determine the "cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses..."<sup>78</sup> As will be shown below, the investigation of 9/11 failed the test of thoroughness, as defined in the UN Principles, for it (a) failed to establish beyond reasonable doubt the identities of those responsible for the deaths; (b) failed to determine the time, location or manner of death of most victims; and (c) failed to adequately collect and analyze evidence and statements from witnesses.

### 8.1 How was the crime perpetrated?

According to the official account, the actual execution of the crime occurred on board of four aircraft between approximately 8:20 and 10:00 AM EST, leaving no perpetrator, victim and witness alive.<sup>79</sup> The official account of what happened on board the aircraft is based almost entirely on contents of phone calls made by passengers and crew to various persons on the ground and the contents of a single retrieved cockpit voice recorder (CVR). CVRs are extremely sturdy devices recording conversations, radio transmissions and all others sounds in an airplane's cockpit for the last 30 minutes of its flight. They are supposed to withstand an impact tolerance of 3400 Gs/6.5ms and 30 minutes of 1100C hot fire.<sup>80</sup> According to the FBI and the National Transportation Safety Board (NTSB), the flight data recorders (FDRs) and the CVRs ("black boxes") of the aircraft, which crashed on the Twin Towers, were never found<sup>81</sup> and the CVR from the crash site at the Pentagon was reported as unreadable.<sup>82</sup>

Yet a thorough investigation would have to exercise particular care in authenticating the evidence in a case where all perpetrators, victims and witnesses are dead and where

<sup>76</sup> The average awards to families of victims exceeded \$2 million. Source: Final Report of the Special Master for the September 11<sup>th</sup> Victim Compensation Fund of 2001.

Available at [http://www.usdoj.gov/final\\_report.pdf](http://www.usdoj.gov/final_report.pdf)

<sup>77</sup> '[T]he State has the obligation to initiate *ex officio*, immediately, a genuine, impartial and effective investigation, which is not undertaken as a mere formality predestined to be ineffective.' *The Ituango Massacres v. Colombia, supra* n. 71

<sup>78</sup> UN Principles (1989), para. 9, see *supra* n. 12

<sup>79</sup> Staff Statement No. 4 ('The Four Flights') to the 7<sup>th</sup> 9/11 Commission Hearing held on 26-27 January 2004. Available at

[http://www.9-11commission.gov/staff\\_statements/staff\\_statement\\_4.pdf](http://www.9-11commission.gov/staff_statements/staff_statement_4.pdf)

<sup>80</sup> Cockpit Voice Recorders (CVR) and Flight Data Recorders (FDR) (Specifications). Available at

[http://www.atlasaviation.com/CVR/about\\_cockpit\\_voice\\_recorders.htm](http://www.atlasaviation.com/CVR/about_cockpit_voice_recorders.htm)

<sup>81</sup> Dave Lindorff, 'Missing Black Boxes in World Trade Center Attacks Found by Firefighters, Analyzed by NTSB, Concealed by FBI', *CounterPunch*, 19 December 2005, quotes an official of the NTSB: 'Off the record, we had the boxes ...we worked on them here.' Available at

<http://www.counterpunch.org/lindorff12202005.html>

<sup>82</sup> Associated Press, 'FBI analyzing voice, data recorders from two flights', *St. Petersburg Times*, 15 September 2001. Available at

[http://www.sptimes.com/News/091501/Worldandnation/FBI\\_analyzing\\_voice\\_.shtml](http://www.sptimes.com/News/091501/Worldandnation/FBI_analyzing_voice_.shtml)

information regarding the scenario of the crime is relayed by electronic means. The following evidence regarding the phone calls should therefore have been authenticated: (a) the identities of those who received the calls; and (b) the reliability, consistency and credibility of the reported conversations; and (c) the location from where the calls were made.

### ***The identities of those who received the calls***

Approximately 20 people on the ground are said to have received phone calls from passengers and crew.<sup>83</sup> The names of all these phone call recipients have been published. No one has challenged their identities. A difficulty arose, however, to have some of these individuals confirm their quoted statements. In one reported case, Michael Sweeney, the husband of flight attendant Amy Sweeney, who died on 9/11, was prevented from talking to former American Airlines employee Michael Woodward, who was the last to talk to his late wife.<sup>84</sup>

### ***Reliability, consistency and credibility of the reported conversations***

Information about most phone calls was publicized in mass media. Yet it is not known how many of these reports reflected direct testimonies by the recipients of the calls. In several cases, the published information on the phone calls was not provided by the direct recipient of the call but by a third party: A relative, a priest, a friend or another spokesperson of the recipient.<sup>85</sup> Contradictory and implausible accounts about the calls have also been reported. There is no evidence that the recipients of the phone calls formally confirmed their testimonies by their signature as is the rule in criminal investigations. Recipients of the phone calls were not, either, invited to testify to the 9/11 Commission in order to corroborate their alleged account. The few transcriptions of such testimonies released by the FBI under FOIA are not authenticated by their alleged authors.

According to one published account, flight attendant Amy Sweeney of flight AA11 provided in her phone call seat numbers for *three* suspects on flight AA11, namely seats 9G, 9D and 10B, respectively.<sup>86</sup> According to another published account, attendant Betty Ong of the same flight provided in her phone call seat numbers for *four* suspects, namely 2A, 2B, 9A and 9B.<sup>87</sup>

<sup>83</sup> See <http://911research.wtc7.net/planes/evidence/calldetail.html>

<sup>84</sup> Gail Sheehy, 'Stewardess ID'd Hijackers Early, Transcripts Show', *The New York Observer*, 15 February 2004. Available at <http://www.observer.com/node/48805>

<sup>85</sup> The following people provided information on some of the calls: Mareya Schneider was the *aunt* of CeeCee Lyles, <http://www.post-gazette.com/headlines/20010922gtenat4p4.asp>; Rev. Frank Colacicco was the *family priest*, of family Burnett <http://www.peoplesstory.com/lastwords.html>; Richard Makely was the *father-in-law* of Jeremy Glick; Doug MacMillan was a *friend* of Todd Beamer, <http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2001/09/17/MN40630.DTL>; Linda Campbell was a spokeswoman of a school, where the mother of flight attendant Renee May was working: [http://www.reviewjournal.com/lvrj\\_home/2001/Sep-13-Thu-2001/news/16989631.html](http://www.reviewjournal.com/lvrj_home/2001/Sep-13-Thu-2001/news/16989631.html)

<sup>86</sup> Gail Sheehy, *supra* n. 85. Yet, in the interview conducted on September 13, 2001 by an undisclosed law-enforcement official with Michael Woodward, who was the airlines' official who talked to Amy Sweeney, there is no mention of seat numbers. The report of this interview does neither include timings nor the questions asked by Woodward. What was the source of Gail Sheehy's allegations? The contents of this interview are found here:

<http://intelfiles.egoplex.com/911COMM-Chapter-1-We-Have-Some-Planes-03.PDF>

<sup>87</sup> Glen Johnson, 'Probe reconstructs horror, calculated attacks on planes', *Boston Globe*, 23 November 2001. Available at

[http://www.boston.com/news/packages/underattack/news/planes\\_reconstruction.htm](http://www.boston.com/news/packages/underattack/news/planes_reconstruction.htm).

As with the case of Amy Sweeney above, the official interview with those who received

According to the Federal Aviation Administration (FAA), seat 9B, occupied according to Betty Ong by one of the suspects, had been occupied by Daniel M. Lewin who was allegedly stabbed to death.<sup>88</sup> According to the 9/11 Commission, the seat numbers of *five* alleged hijackers on that flight were: 2A, 2B, 8D, 8G, 10B.<sup>89</sup> The Commission did not provide any explanation for these conflicting accounts.

According to the San Francisco Chronicle *four* separate phone calls were made by Thomas Burnett from flight UA93 to his wife Deena. She reported to have noted exactly the call times as 9:27, 9:34, 9:45 and 9:54.<sup>90</sup> However a court document produced at Moussaoui's trial<sup>91</sup> regarding Burnett's phone calls only lists *three* phone calls made to her at 9:30:22, 9:37:54 and 9:44:23.<sup>92</sup> Neither the number of calls nor the timings match.

Lisa Jefferson, a telephone supervisor working for Verizon Corporation who reportedly received a call from a passenger on board of Flight UA93, was interviewed telephonically by undisclosed law-enforcement officials few hours after the attacks on 9/11. The contents of this interview and the identity of the interviewer remain classified.<sup>93</sup> Yet, news media have reported in detail about this conversation. According to these reports Todd Beamer, a passenger from flight UA93 unknown to her, called at 9:45 and talked with her for 13 minutes. Jefferson "could hear shouts and commotion and then Beamer asked her to pray with him. They recited the 23<sup>rd</sup> Psalm. He got Jefferson to promise that she would call his family, then dropped the phone, leaving the line open...Then there was silence. Jefferson hung up at 10 a.m. EST, realizing that the plane had gone down. Officials said it crashed at 9:58 a.m."<sup>94</sup> Lisa Beamer, Todd's wife, reporting a conversation she had with Jefferson, said her husband "told [Jefferson] about our family, and he told her about me. And she knew the boys names. And she knew we were expecting a baby in January."<sup>95</sup> There is no evidence that this distress call was recorded, as might have been expected from a phone company. Jefferson did not go "through the routine questions in her distress-call manual. She had not connected this agitated man to his wife waiting anxiously at home...Mrs Beamer only learned of her husband's final call four days later, when a representative of United Airlines got in touch."<sup>96</sup> There is no explanation why the US authorities keep secret the contents of the interview with Lisa Jefferson, nor is it known from where news media obtained the information about the conversation that had taken place between Todd Beamer and Lisa Jefferson.

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Ong's call does not mention that she relayed the seat numbers of the alleged hijackers. What was the source of the media report? See <http://intelfiles.egoplex.com/911COMM-Chapter-1-We-Have-Some-Planes-04.PDF>

<sup>88</sup> [http://en.wikipedia.org/wiki/Daniel\\_M.\\_Lewin](http://en.wikipedia.org/wiki/Daniel_M._Lewin)

<sup>89</sup> Final Report of the National Commission on Terrorist Attacks Upon the United States, Official Government Edition. Available at <http://www.gpoaccess.gov/911/index.html>, p. 2

<sup>90</sup> Susan Sward, 'The Voice of the Survivors', *San Francisco Chronicle*, 21 April 2002. Available at <http://sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/2002/04/21/MN190309.DTL>

<sup>91</sup> About Moussaoui's trial, see *supra* n. 7

<sup>92</sup> <http://911research.wtc7.net/planes/evidence/docs/calls/Flight93/ThomasBurnett.jpg>

<sup>93</sup> Intelwire.egoplex.com, at

<http://intelfiles.egoplex.com/911COMM-Chapter-1-We-Have-Some-Planes-02.PDF>

<sup>94</sup> Jim McKinnon, 'The phone line from Flight 93 was still open ...', *Post-Gazette.com*, 16 September 2001). Available at <http://www.post-gazette.com/headlines/20010916phonecallnat3p3.asp>

<sup>95</sup> 'A Call of Courage', *NBC News*, 18 September 2001. Available at <http://www.damien.tv/Terror/beamer.htm>

<sup>96</sup> Rowland Morgan, 'Flight 93 was shot down', *London Daily Mail*, 19 August 2006, cached at <http://www.prisonplanet.com/articles/august2006/190806shotdown.htm>

A critical analysis of the phone calls from UA93 was made by John Doe II (pseudonym). He reveals at least 14 glaring contradictions, oddities and anomalies that were not investigated by the FBI or the 9/11 Commission.<sup>97</sup>

The absence of authenticated testimonies from alleged recipients of phone calls from the airliners and the numerous contradictions, oddities and anomalies in the reported accounts seriously undermine the reliability and credibility of these accounts.

### ***The location from which the calls were made***

According to media stories published shortly after 9/11, ten calls had been made from the aircraft with cellular phones.<sup>98</sup> At least one recipient, Deena Burnett, explicitly stated that she recognized her husband's cell phone ID when he called.<sup>99</sup> Experimental and empirical evidence, however, indicates that cell phone calls are unlikely to succeed from aircraft flying above 8,000 feet.<sup>100</sup> Was the call made from another location? If it was wrongly assumed that the calls had been made with cell phones, it would mean that they had been made with so-called airfones fixed to the back of the seats<sup>101</sup>. This fact could have been easily determined within days after 9/11, because each phone call generates a billing record and can be traced to the particular location and equipment. Such evidence has not been produced.<sup>102</sup> An answer to this question is particularly important with regard to flight AA77, because airfones apparently were not available on this aircraft on 9/11.<sup>103</sup> Should this absence be confirmed, it would mean that the calls reported from that aircraft had either been made from another location or were simply fairy-tales. This, in turn, would raise questions about the reliability of the official account regarding the other phone calls.

### ***The cockpit voice recorder***

The only retrieved CVR – according to official reports – was from flight UA93 which allegedly crashed on a field in Pennsylvania. This CVR poses another problem. The FBI controlled the analysis of that CVR and initially opposed to have even family members listen to it.<sup>104</sup> Questions remain about the authenticity of this CVR: Transcripts of CVRs from other aircraft crashes around the world, that are publicly accessible on the internet, mention numerous engine and other ambient sounds from the cockpit in addition to conversation.<sup>105</sup>

<sup>97</sup> John Doe II, 'UA 93: Too Many Contradictions'. 12 March 2005, Available at [http://www.team8plus.org/e107\\_plugins/forum/forum\\_viewtopic.php?24](http://www.team8plus.org/e107_plugins/forum/forum_viewtopic.php?24)

<sup>98</sup> A detailed and annotated list of the phone calls is available at [http://www.thewebfairy.com/killtown/chart.html#Edward\\_Felt](http://www.thewebfairy.com/killtown/chart.html#Edward_Felt)

<sup>99</sup> Greg Gordon, 'Widow tells of poignant last calls', *The Sacramento Bee*, September 11, 2002. Cached at <http://holtz.org/Library/Social%20Science/History/Atomic%20Age/2000s/Sep11/Burnett%20widows%20story.htm>. Confirmed in a letter by Tom Burnett's father to the *National Review*, 20 May 2002, cached at [http://findarticles.com/p/articles/mi\\_m1282/is\\_9\\_54/ai\\_85410322](http://findarticles.com/p/articles/mi_m1282/is_9_54/ai_85410322)

<sup>100</sup> *Wireless Review*, 1 Nov. 2001; A.K. Dewdney, 'Project Achilles': Final Report and Summary of Findings, April 19, 2003. Available at <http://physics911.net/projectachilles>

<sup>101</sup> Final Report of the 9/11 Commission, infra n. 144, Note 77 to Chapter I

<sup>102</sup> The evidence presented at the Moussaoui trial is inconclusive and unsourced, see <http://911research.wtc7.net/planes/evidence/calldetail.html>

<sup>103</sup> David Ray Griffin and Rob Balsamo, 'Could Barbara Olson Have Made Those Calls? An Analysis of New Evidence about Onboard Phones', *Pilots for 9/11 Truth*, 26 June 2007. Available at <http://pilotsfor911truth.org/amrarticle.html>

<sup>104</sup> Reuters News Service, 'FBI refuses to release cockpit tape from hijacked flight', *Houston Chronicle*, 20 December 2001. Available at <http://www.chron.com/disp/story.mpl/special/terror/front/1181993.html>

<sup>105</sup> See EgyptAir 990 CVR Transcript: [http://www.nts.gov/Events/EA990/docket/Ex\\_12A.pdf](http://www.nts.gov/Events/EA990/docket/Ex_12A.pdf); SwissAir Flight 111 CVR Transcript: [http://aviation-safety.net/inv.....\\_sr111.php](http://aviation-safety.net/inv....._sr111.php); TWA Flight 800 CVR Transcript: [http://aviation-safety.net/inv.....\\_tw800.php](http://aviation-safety.net/inv....._tw800.php)

The transcript of Flight UA93's CVR does not mention any such sounds<sup>106</sup> and particularly no crash sound at the end, as would be expected,<sup>107</sup> suggesting that the transcript does not faithfully reflect what is heard in the recording. German author Gerhard Wisnewski made a pertinent observation that the released transcript differed significantly from authentic CVR transcripts by failing to mention the aircraft's ID, the name of the person and the agency who issued the transcript and the date the transcript was issued.<sup>108</sup> The released transcript cannot, therefore, be attributed to any transcriber. Furthermore serious discrepancies have been revealed between what family members heard when the CVR was first played to them by the FBI on 18 April 2002<sup>109</sup> and what the 9/11 Commission reported to have heard from the CVR recording at a later date. These discrepancies suggest that the CVR recording has either been manipulated<sup>110</sup>, that two versions had been made from one CVR or that the released documents had been fabricated.

As the phone calls from the aircraft and the CVR from Flight UA93 constitute the main evidence regarding the actual scenario of the crime, only full transparency of such data, including the disclosure of the identities of those who compiled the data, confirmation by recipients of the phone calls of what they actually reported to the authorities and a plausible explanation for the numerous inconsistencies, oddities and anomalies in the phone calls, can ensure the right of victims and the public to the truth.

## 8.2 Who were the perpetrators?

The US government alleges that nineteen individuals whose names and photographs have been released by the FBI<sup>111</sup> and whom no one has seen since 11 September 2001, had booked seats on flights AA11, AA77, UA93 and UA175 for that same day, boarded onto those flights, hijacked the aircraft and deliberately crashed these aircraft with passengers and crew on the Twin Towers of the World Trade Center, the Pentagon and on a field in Pennsylvania.

The accusations against these nineteen individuals were based, for the most part, on what were described as lucky discoveries made on 9/11 by the FBI. The first was the discovery of two pieces of luggage allegedly owned by Mohammed Atta, the lead suspect, which were not loaded onto flight AA11. The reason for this alleged mistake at Logan airport was never disclosed. According to FBI Special Agent James M. Fitzgerald, who testified at the Moussaoui trial, the connecting flight from Portland which brought Mohammed Atta and Abdul Aziz Alomari to Boston, had "arrived too late for the luggage to be loaded onto Flight 11"<sup>112</sup> According to the 9/11 Commission, however, the flight arrived on time at approximately 6:45 A.M., one hour before the scheduled departure of Flight AA11.<sup>113</sup> The

<sup>106</sup> <http://i.a.cnn.net/cnn/2006/images/04/12/flight93.transcript.pdf>

<sup>107</sup> Released CVR recordings from aircraft crashes are available at <http://www.airdisaster.com/cvr/cvrwav.shtml>

<sup>108</sup> Gerhard Wisnewski, *Verschlußsache Terror – Wer die Welt mit Angst registert*, Knauer Taschenbuch, 2007, pp. 130-131

<sup>109</sup> John Doe II, *supra* n. 96

<sup>110</sup> *Ibid.*

<sup>111</sup> FBI, Press Release, 27 September 2001. Available at

<http://www.fbi.gov/pressrel/pressrel01/092701hjpgic.htm>

<sup>112</sup> *United States of America v Zacarias Moussaoui*, U.S. District Court, Alexandria Division. Cross-examination of FBI Special Agent James M. Fitzgerald. March 7, 2006, 10:00 A.M. Transcript p. 38. Available at <http://cryptome.org/usa-v-zm-030706-01.htm>

<sup>113</sup> 9/11 Commission's Staff Report of 26 August 2004 (declassified), p. 3. Available at <http://www.archives.gov/legislative/research/9-11/staff-report-sept2005.pdf>

contents of the luggage enabled FBI agents to "swiftly unravel the mystery of who carried out the suicide attacks and what motivated them".<sup>114</sup>

Among the items reportedly found in Atta's bags were: a hand-held electronic flight computer, a simulator procedures manual for Boeing 757 and 767 aircraft, a slide-rule flight calculator, a copy of the Qur'an and a handwritten testament written in Arabic. According to later testimonies by former FBI agents, the luggage also contained the identities of all 19 suspects involved in the four hijackings, information on their plans, backgrounds, motives, al Qaeda connections and [a] folding knife and pepper spray.<sup>116</sup> According to FBI Special Agent Fitzgerald, Abdul Aziz Alomari's passport was also found in one the bags.<sup>117</sup>

Other incriminating items of evidence were also swiftly found. The 9/11 Commission noted that a passport of one of the alleged hijackers was found near the World Trade Center where a "passer-by picked it up and gave it to a NYPD detective shortly before the ...towers collapsed"<sup>118</sup>. Numerous observers found it difficult to believe that such a document could make it undamaged from the pocket of a dead suspect in the burning wreckage within the building to the street and be found within minutes. A Saudi Arabian driver's license of Ahmad al-Ghamdi, another suspect, "was recovered at the World Trade Center crash site". A "four-page letter written in Arabic that was identical to the one recovered from the luggage of Mohammed Atta at Logan Airport", a cashier's check made out to a flight school in Phoenix, four drawings of the cockpit of a 757 jet, a box cutter-type knife, maps of Washington and New York, and a page with notes and phone numbers, were found in a Toyota Corolla registered to alleged hijacker Nawaf Alhazmi at Washington's Dulles Airport on 12 September.<sup>119</sup> In a car rented by alleged hijacker Marwan Alshehhi discovered at Boston's Logan Airport, the FBI discovered an Arabic language flight manual, a pass giving access to restricted areas at the airport, documents containing a name on the passenger list of one of the flights, and the names of other suspects. The name of the flight school where Mohammed Atta and Alshehhi studied, Huffman Aviation, is also found in the car.<sup>120</sup> A number of documents purporting to identify the suspects of flight UA93 were also reportedly found at that flight's crash site, where no wreckage was seen and no drop of blood.<sup>121</sup> These included the passport of suspect Al Ghamdi,<sup>122</sup> Alnami's Florida Driver's License<sup>123</sup>, his Saudi Arabian

<sup>114</sup> Michael Dorman, 'Unravelling 9-11 was in the bags', *Newsday*, 17 April 2006. Available at [http://www.newsday.com/news/nationworld/nation/ny-uslugg274705186apr17\\_0,6096142.story?coll=ny-nationalnews-print](http://www.newsday.com/news/nationworld/nation/ny-uslugg274705186apr17_0,6096142.story?coll=ny-nationalnews-print)

<sup>115</sup> FBI Affidavit, at <http://www.abc.net.au/4corners/atta/resources/documents/fbiaffidavit1.htm>

<sup>116</sup> Michael Dorman, *supra* n. 113

<sup>117</sup> *United States of America v Zacarias Moussaoui*, *supra* n. 111

<sup>118</sup> Susan Ginsburg (staff member of the Commission) at Public Hearing of the 9/11 Commission, 26 January 2004. Available at <http://www.sacred-texts.com/ame/911/911tr/012604.htm>

<sup>119</sup> U.S. v. Moussaoui, *supra* n. 111, p. 39; Arizona Daily Star, 28 September 2001, Cox News Service, 21 October 2001.

<sup>120</sup> Los Angeles Times, 13 September 2001

<sup>121</sup> Robb Frederick, 'The day that changed Amereica', *Pittsburgh Tribune-Review*, 11 September 2002. Cached at

[http://www.aldeilis.net/english/index.php?option=com\\_content&task=view&id=2263&Itemid=107](http://www.aldeilis.net/english/index.php?option=com_content&task=view&id=2263&Itemid=107)

<sup>122</sup> Moussaoui trial exhibit PA00108, at

<http://www.vaed.uscourts.gov/notablecases/moussaoui/exhibits/prosecution/PA00108.html>

Youth Hostel Association ID card<sup>124</sup>, a visa page from Ziad Jarrah's passport<sup>125</sup>, and a business card of Jarrah's uncle.<sup>126</sup> At the Pentagon crash site, a "Kingdom of Saudi Arabia Student Identity Card" is discovered with alleged hijacker Majed Moqed's name on it.<sup>127</sup>

On September 12, 2001, the FBI was notified by a hotel owner in Deerfield Beach, Florida, that he found a box cutter left in a room left by alleged hijacker Marwan Alshehhi and two unidentified men. The owner said having found in a nearby trash a duffel bag containing Boeing 757 manuals, three illustrated martial arts books, an 8-inch stack of East Coast flight maps, a three-ring binder full of handwritten notes, an English-German dictionary, an airplane fuel tester, and a protractor.<sup>128</sup>

The night before 9/11, after making predictions of an attack on America the next day, some of the alleged hijackers were reported to have left a business card and a copy of the Qur'an at the bar.<sup>129</sup>

The amount and nature of all of that incriminating evidence impelled an unidentified former high-level intelligence official to suggest: "Whatever trail was left was left deliberately – for the FBI to chase."<sup>130</sup> Whatever the truth of this suspicion, it is important to remember that the discovery of these items does not prove that their alleged owners actually boarded any particular aircraft, hijacked that aircraft and crashed the aircraft at the known sites. In order to prove that the suspects actually boarded the aircraft and died at the known crash sites, at least three types of evidence should have been produced: Authenticated passenger lists, identification of the suspects as they boarded the aircraft and identification of their bodily remains from the crash sites.

***(i) No authenticated passenger lists***

Airline passenger lists are essential documents required for insurance purposes. This is why it is important for each airline to meticulously document and check the identities of passengers who board passenger airliners. It must be added, however, that names on passenger lists do not constitute evidence of identity. Persons can travel under bogus names. Thus, even if the names used by the 19 alleged hijackers had appeared on *bona fide* passenger lists, this evidence alone would not prove who hid behind these names. A further step would be needed to determine the real identities behind such names. An examination of the issue of identities is outside the scope of this study. In the present section we merely examine whether conclusive evidence exists that individuals going under the *names* of the alleged 19 hijackers, had boarded the four 9/11 aircraft.

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<sup>123</sup> Moussaoui trial exhibit PA00110, at <http://www.vaed.uscourts.gov/notablecases/moussaoui/exhibits/prosecution/PA00110.html>

<sup>124</sup> Moussaoui trial exhibit PA00102, at <http://www.vaed.uscourts.gov/notablecases/moussaoui/exhibits/prosecution/PA00102.html>

<sup>125</sup> Moussaoui trial exhibit PA00105.08, at <http://www.vaed.uscourts.gov/notablecases/moussaoui/exhibits/prosecution/PA00105-08.html>

<sup>126</sup> Moussaoui trial exhibit GX-PA00109, at <http://www.rcfp.org/moussaoui/>  
<sup>127</sup> 9/11 Commission Final Report, *infra* n. 144, p. 132

<sup>128</sup> Miami Herald, 16 September 2001; Associated Press, 16 September 2001.

<sup>129</sup> Associated Press, 14 September 2001

<sup>130</sup> The New Yorker, 8 October 2001

It is not widely known that the US authorities have not produced *authenticated* passenger lists. The following paragraphs may throw light on the reason for the absence of such authentic lists.

On 13 September 2001 Attorney General John Ashcroft said that "[b]etween three and six individuals on each of the hijacked airplanes were involved" in the hijackings.<sup>131</sup> On the same day FBI Director Robert Mueller said that a "preliminary investigation indicated 18 hijackers were on the four planes -- five on each of the two planes that crashed into the World Trade Center, and four each on the planes that crashed into the Pentagon and in Pennsylvania".<sup>132</sup> A day later the number grew to 19.<sup>133</sup> Initially, the name of Mosear Caned (ph) was released by CNN as one of the suspected hijackers.<sup>134</sup> His name disappeared a few hours later from the list of suspects when CNN posted a new list of suspects released by the FBI<sup>135</sup>. It was never explained why Caned's name had appeared in the first place and why it was then removed.<sup>136</sup> Two other names, Adnan and Ameer Bukhari, whose names had also apparently figured on the original passenger list, disappeared and were replaced by other names.<sup>137</sup> A fourth person, Amer Kamfar, was also named as an initial suspect hijacker.<sup>138</sup> His name also disappeared from the subsequent lists of suspect hijackers. The Washington Post revealed that the original passenger lists did not include the name of Hani Hanjour who later appeared as one of the alleged hijackers. In its Final Edition of 16 September 2001 the paper explained that his name "was not on the American Airlines manifest for [Flight 77] because he may not have had a ticket."<sup>139</sup> This statement indicates that the Washington Post had received from American Airlines or the FBI a "manifest" of Flight 77, which did not include Hani Hanjour's name. Hanjour's name was, however, included on computer print-outs purporting to represent authentic copies of passenger lists and leaked to the public, as mentioned below.

In 2006, a seven-page set of faxes purported to represent the original flight manifests was published in a book by Terry McDermott, who claims to have received these from the FBI. These lists were later posted on the web.<sup>140</sup> These released images are of very bad quality and do not appear to be true copies of the original passenger lists (or flight manifests) for at least three reasons: (1) The displayed images reflect pasting together of various sheets; (2) There is no indication that the lists were printed immediately after the boarding of the aircraft, as is the

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<sup>131</sup> 'FBI: Early probe results show 18 hijackers took part', *CNN*, 13 September 2001. Available at <http://edition.cnn.com/2001/US/09/13/investigation.terrorism/>

<sup>132</sup> Ibid.

<sup>133</sup> FBI Press Release of 14 September 2001. Available at [http://www.aldeilis.net/english/index.php?option=com\\_content&task=view&id=372&Itemid=107](http://www.aldeilis.net/english/index.php?option=com_content&task=view&id=372&Itemid=107)

<sup>134</sup> Kelli Arena, *CNN*, 14 September 2001, 10:11 ET. Available at <http://transcripts.cnn.com/TRANSCRIPTS/0109/14/bn.01.html>

<sup>135</sup> 'FBI list of suspected hijackers', *CNN*, 14 September 2001, 2:00 PM, EDT. Available at <http://edition.cnn.com/2001/US/09/14/fbi.document/>

<sup>136</sup> Xymphora, 'Analysis of the Mosear Caned mystery'. Available at [http://www.aldeilis.net/english/index.php?option=com\\_content&task=view&id=1993&Itemid=107](http://www.aldeilis.net/english/index.php?option=com_content&task=view&id=1993&Itemid=107)

<sup>137</sup> Mike Fish, 'Fla. flight schools may have trained hijackers', *CNN*, 14 September 2001. Available at <http://edition.cnn.com/2001/US/09/13/flight.schools/>

<sup>138</sup> Wikipedia, [http://en.wikipedia.org/wiki/Amer\\_Kamfar](http://en.wikipedia.org/wiki/Amer_Kamfar)

<sup>139</sup> Khalid Al-Mihdhar, *Washington Post*, 16 September 2001, p. A06 (no author indicated)

<sup>140</sup> Faxes of Alleged Flight Manifests, at <http://911research.wtc7.net/planes/evidence/passengers.html>

normal practice (those pertaining to Flights UA93 and UA175 were printed on October 4, 2002): (3) The lists include no signature and no source. The FBI, responding on April 4, 2007 to the present author's FOIA request for the release of the *original* passenger lists, wrote that the requested passenger lists of Flights AA11, AA77, UA93 and UA175 were "available publicly through the internet at the U.S. Department of Justice website".<sup>141</sup> This website contains exhibits released at the Moussaoui trial. An examination of Exhibit P200054 to which the FBI provided a link revealed that it does not contain passenger lists, but slickly presented graphics purporting to reflect the contents of the original passenger lists. This could explain the discretion surrounding the release of these graphics at the trial and the reluctance of mass media to highlight this newly released "evidence".

According to his testimony to the 9/11 Commission, Robert Bonner, "[o]n the morning of 9/11, through an evaluation of data related to the passengers manifest for the four terrorist hijacked aircraft, Customs Office of Intelligence was able to identify the likely terrorist hijackers. Within 45 minutes of the attacks, Customs forwarded the passenger lists with the names of the victims and 19 probable hijackers to the FBI and the intelligence community."<sup>142</sup> But how would Customs know who among the over 250 passengers were "the likely terrorist hijackers" unless they assumed those to bear Arab names? According to Richard Clarke, who served under both President Clinton and George W. Bush as National Coordinator for Security and Counterterrorism, he was informed by Dale Watson, counterterrorism chief at FBI, on the morning of 9/11, through a secure telephone line that "[w]e got the passenger manifests from the airlines. We recognize some names, Dick. They're al Qaeda." Clarke adds: "I was stunned, not that the attack was al Qaeda but that there were al Qaeda operatives on board aircraft using names that FBI knew were al Qaeda."<sup>143</sup> It also appears strange that Robert Bonner claims to have received a final list of alleged hijackers with 19 names on the morning of 9/11 while Robert S. Mueller, director of the FBI, still claims two days later that they were only 18.<sup>144</sup> To our knowledge, the 9/11 Commission did not query these persons about their ability to so swiftly identify the villains. The documents reportedly received by Robert Bonner and Dale Watson were never shown in public. It is therefore not known who generated this lists, when these lists were generated and what they actually contained.

On 12 September 2001, various newspapers, including the Washington Post, the Los Angeles Times and USA Today, published partial passenger lists of the crashed flights. These reports included Jude Larson, 31, and his wife, Natalie, 24, as passengers aboard flight AA11.<sup>145</sup> Yet on September 18, 2001, the Honolulu Star Bulletin reported that the newspaper had received an email from Jude, apparently alive, notifying of the mistake.<sup>146</sup> According to the paper, "a person claiming to be with the airlines" called Jude's father, Curtis Larson, described as a "known sculptor" in his community, and informed him that his son and daughter-in-law had been passengers on flight AA11. The names of Jude and Natalie Larson then disappeared from publicized passenger lists. More bizarre is that the names of Jude and Natalie Larson,

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<sup>141</sup> Letter in possession of the author. The letter provided the link to the following official website:

<http://www.vaed.uscourts.gov/notablecases/moussaoui/exhibits/prosecution/flights/P200054.html>

<sup>142</sup> Statement of Robert C. Bonner to the National Commission on Terrorist Attacks Upon The United States, January 26, 2004, at

[http://www.9-11commission.gov/hearings/hearing7/witness\\_bonner.htm](http://www.9-11commission.gov/hearings/hearing7/witness_bonner.htm)

<sup>143</sup> Richard A. Clarke, *Against All Enemies*, FreePress (2004), p. 13

<sup>144</sup> *Supra* note 25

<sup>145</sup> CBS, 12 September 2001, <http://election.cbsnews.com/stories/2001/09/12/national/main310935.shtml>; The Honolulu Star Bulletin, 12 September 2001, <http://starbulletin.com/2001/09/12/news/story1.html>; Washington Post, 13 September 2001, <http://www.washingtonpost.com/ac2/wp-dyn/A18970-2001Sep12>; CNN (undated), <http://edition.cnn.com/SPECIALS/2001/trade.center/victims/AA11.victims.html>.

<sup>146</sup> Honolulu Star Bulletin, 18 September 2001, <http://starbulletin.com/2001/09/18/news/story5.html>

whose names are not anymore officially listed as flight AA11 victims, are still listed as dead on the National Obituary Archive<sup>147</sup> and the World Memorial website that lists the names of the dead passengers and crew.<sup>148</sup> Efforts by the author to locate Curtis Larson, presented as a “known scultor” in his community, have remained unsuccessful.

According to Terry Tyksinski, a longtime flight attendant with United Airlines, a customer service supervisor told her that he had observed two passengers leave Flight 93 after hearing an announcement that there will be a five-minute delay in the plane pushing back from the gate. The two first-class passengers were reportedly of dark complexion, “kind of black, not black.” According to Tyksinski, the supervisor noted their names and was subsequently twice interviewed by the FBI.<sup>149</sup> No other accounts, including the 9/11 Commission Report, mention this incident. There is no ground, however, to doubt Ms. Tyksinski’s account. As the individuals mentioned by her presumably checked in with a ticket, their names should have been recorded on the passenger list of Flight 93 of those who initially boarded the aircraft. Were their names removed? If so, when and by whom? Why didn’t the 9/11 Commission inquire about their identity?

The aforementioned fluctuations in the number and names of the alleged hijackers (and passengers) could not have happened if these declarations had been based on authentic documentation.

While the names of all passengers, crew and alleged hijackers were publicized shortly after 9/11 in the media, the FBI and the airlines have consistently refused and continue to refuse to demonstrate that they possess authentic, original, passenger lists (flight manifests), of the four 9/11 flights<sup>150</sup>. As the names of all victims and alleged hijackers have been publicized within days after 9/11, no plausible reason exists for refusing to confirm – by releasing the original, authentic, documents – information that already exists in the public domain, unless that information is at least partly bogus.

***(ii) No testimonies of aircraft boarding***

A second category of evidence to prove that particular individuals have boarded a particular airplane at a particular gate and a specific time, is eyewitness testimony and security video recordings.

According to the 9/11 Commission, ten of the nineteen suspects were selected on 9/11 at the airports by the automated CAPPS system for “additional security scrutiny”.<sup>151</sup> Yet no one of those who handled the selectees, or any of the numerous airline or airport security employees interviewed by the FBI or the FAA on or after 9/11 is known to have seen the suspects. As for flights AA11 and UA175, the 9/11 Commission found that “[n]one of the [security] checkpoint supervisors recalled the hijackers or reported anything suspicious regarding their

<sup>147</sup> National Obituary Archive: [http://www.arrangeonline.com/Obituary/obituary.asp?ObituaryID=64182329;](http://www.arrangeonline.com/Obituary/obituary.asp?ObituaryID=64182329;http://www.nationalobituaryarchive.com/donation/donation.asp?ObituaryID=64182329;http://www.cemeteryonline.com/ctz/0Mem/20010911/AA11-2001.htm)  
<http://www.nationalobituaryarchive.com/donation/donation.asp?ObituaryID=64182329;>  
<http://www.cemeteryonline.com/ctz/0Mem/20010911/AA11-2001.htm>

<sup>148</sup> [http://www.world-memorial.org/Tribute/American/in\\_memory.html](http://www.world-memorial.org/Tribute/American/in_memory.html)

<sup>149</sup> Ibid. pp. xiii-xiv

<sup>150</sup> The refusal to release the original passenger lists, has typically taken an evasive form, illustrated in an exchange of emails between this author and American Airlines. See [http://www.aldeilis.net/english/index.php?option=com\\_content&task=view&id=2329&Itemid=107](http://www.aldeilis.net/english/index.php?option=com_content&task=view&id=2329&Itemid=107)

<sup>151</sup> Final Report of the National Commission on Terrorist Attacks Upon the United States, Official Government Edition (“9/11 Commission Report”), Available at <http://www.gpoaccess.gov/911/index.html>, Chapter I, Note 2, p. 451.

screening."<sup>152</sup> As for flight AA77, the 9/11 Commission wrote that "[w]hen the local civil aviation security office of the FAA later investigated these security screening operations, the screeners recalled nothing out of the ordinary. They could not recall that any of the passengers they screened were CAPPs selectees."<sup>153</sup> As for flight UA93, the 9/11 Commission indicated that the "FAA interviewed the screeners later; none recalled anything unusual or suspicious."<sup>154</sup> According to an undated FBI report, the "FBI collected 14 knives or portions of knives at the Flight 93 crash site."<sup>155</sup> Yet no screener is known to have mentioned coming across a single knife that morning.<sup>156</sup>

Airline personnel see off passengers as they board onto aircraft in order to tear off the stub of their boarding cards or simply to count the passengers. Under the circumstances of 9/11, one would have expected to see and hear media interviews with those who were the last to have seen passengers and crew alive, particularly airline personnel who observed the boarding process in the morning of 9/11. Yet no such interview apparently took place. The 9/11 Commission does not mention the existence of any deposition or testimony by these airline personnel. And even the identities of these employees remains secret: As a response to this author's request to interview, for research purposes, American Airlines employees who saw off passengers of flight AA77, the airline responded that their identities cannot be revealed for privacy reasons.<sup>157</sup>

As no person has testified to have witnessed the boarding process, did perhaps security cameras document it? Apparently none of the three airports from where the 9/11 aircraft reportedly departed had surveillance cameras above the *boarding gates*. Thus, there exists neither eyewitness testimony nor a visual documentation of the boarding process.

Yet public opinion remains convinced that surveillance videos of the boarding process had been shown on TV networks. In fact, what has been shown around the world was not the boarding process of any of the four aircraft but two video recordings, one of which is said to be from Portland airport and the other from Dulles Airport. The Portland video purports to show Mohammed Atta and alleged hijacker Alomari before they board onto a connecting flight to Boston. This video does not prove that they boarded any flight at Logan airport. The other video recording is said to be from the screening checkpoint at Dulles Airport from where flight AA77 allegedly departed.

According to Lewis Schiliro, the former assistant FBI director in charge of the New York field office from 1998 to April 2000, cited by the New York Times of September 13, 2001, FBI agents "examined footage from *dozens* of cameras at the *three* airports where the

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<sup>152</sup> Ibid. Chapter I, p. 2. In support of this statement, the Commission refers to interviews with six named individuals.

<sup>153</sup> Ibid. Chapter I, p. 3. In support of this statement, the Commission refers to an interview made on April 12, 2004 with Tim Jackson, a person whose role is not indicated.

<sup>154</sup> Ibid. Chapter I, p. 4. In support of this statement, the Commission refers to an unreleased FAA report, "United Airlines Flight 93, September 11, 2001, Executive Report," of Jan. 30, 2002.

<sup>155</sup> Ibid. Note 82, p. 457

<sup>156</sup> Staff Statement No. 3 to the 9/11 Commission made at the 7<sup>th</sup> Public Hearing, 26-27 January 2004, pp. 9-10. Available at [http://www.9-11commission.gov/staff\\_statements/staff\\_statement\\_3.pdf](http://www.9-11commission.gov/staff_statements/staff_statement_3.pdf)

<sup>157</sup> Exchange of emails between the author and American Airlines, *supra* n. 146. See letter from American Airlines to the author dated 1 December 2005.

terrorists boarded the aircraft.”<sup>158</sup> According to the 9/11 Commission Staff Report, Logan Airport’s “security checkpoints and gate area were not monitored by video surveillance equipment at that time.”<sup>159</sup> Either of these statements must be false.

According to the 9/11 Commission's staff, the security checkpoints at Newark International Airport were not either monitored by video cameras<sup>160</sup>. But this claim appears to have been contradicted by Michael Taylor, president of American International Security Corporation.<sup>161</sup> It is also contradicted by the statement in the previous paragraph. The only recording attempting to place the alleged hijackers at one of the three departure airports is a grainy surveillance recording purporting to show the alleged hijackers of flight AA77 pass through the security checkpoint at Dulles Airport, Washington, D.C. This recording was not voluntarily released by the US government, but was forced out in 2004 under the Freedom Of Information Act.<sup>162</sup> This video recording can be found on various sites on the Internet.<sup>163</sup> We note the puzzling absence of identifying data such as date, time and camera number. Adding to the mystery, the released recording does not show any passengers pass through the security checkpoint. Aside from the dubious source of this recording, it does not show who *boarded* the aircraft but only a handful of ill-recognizable individuals who passed a security checkpoint.

***(iii) No boarding passes***

To ensure that all checked-in passengers actually board the aircraft, airline personnel usually tear a stub of the boarding pass and count these stubs. These stubs carry the names of the passengers. The 9/11 Commission Staff report,<sup>164</sup> which mentions specifically that Mohammed Atta received a "boarding pass" at Portland airport, does not mention at all boarding passes in connection with flights AA11, AA77, UA175 and UA93, as if such documents did not exist. The Staff report does not explain how the airlines checked who boarded the aircraft.

***(iv) No positive identification of the alleged hijackers' bodily remains***

According to the official account, the 19 hijackers died in the crashes at the World Trade Center, the Pentagon and at the crash site near Shanksville, Pennsylvania. Yet, there is no positive proof that they did. There is no indication that a proper chain of custody between the crash sites and the final disposition of bodily remains had been established by the FBI, as required in criminal cases. The 9/11 Commission did not refer to any such documentation.

Unidentified officials spoken to by The Times (U.K.) in October 2001 *expected* that the bodies of the 9/11 suspects would be identified "by a process of elimination"<sup>165</sup>. They did not explain on what grounds they did not envisage a *positive* identification of these bodies.

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<sup>158</sup> William C. Rempel & Richard A. Serrano, Investigators Identify 50 Terrorists Tied to Plot, *New York Times*, 13 September 2001, cached at Doc.130-Times.pdf (emphasis added)

<sup>159</sup> Staff Report, *supra* 5, at p. 5

<sup>160</sup> Staff Statement, *supra* n. 115, p. 35

<sup>161</sup> Doug Hanchett and Robin Washington, 'Logan lacks video cameras', *Boston Herald*, 29 September 2001.

<sup>162</sup> Nick Grimm, 'Commission report finalised as 9/11 airport video released', *ABC.net.au*, 22 July 2004. Available at <http://www.abc.net.au/pm/content/2004/s1159804.htm>

<sup>163</sup> The video can be viewed here: [http://www.whatreallyhappened.com/hijackers\\_video.html](http://www.whatreallyhappened.com/hijackers_video.html)

<sup>164</sup> Staff Report, *supra* n. 112

<sup>165</sup> Damian Whitworth, 'Hijackers' bodies set Bush grisly ethical question', *The Times (U.K.)*, 6 October 2001

Chris Kelly, spokesman of the Armed Forces Institute of Pathology (AFIP), where the identification of the victims' remains from flights AA77 and UA93 took place, said that the authorities were reluctant to consider releasing the hijackers' bodies: "We are not quite sure what will happen to them, we doubt very much we are going to be making an effort to reach family members over there."<sup>166</sup> He did not explain why no efforts would be made to locate the families of the alleged hijackers, or why why AFIP could not use comparison DNA samples from known locations in the United States where the alleged hijackers had lived. According to Llonald Mixell, landlord of one of the alleged hijackers, Alomari, in Vero Beach, Florida, the FBI "searched the Omari home [and] agents left a list of materials seized, including hair samples and air conditioning filters."<sup>167</sup> According to Jeff Killeen, spokesman for the FBI field office in Pittsburgh, "there haven't been any friends or family members to try to claim to remains of [the hijackers]."<sup>168</sup> Yet the family of alleged hijacker Ziad Jarrah in Lebanon was reported as early as September 16, 2001, to be "ready to cooperate with the authorities."<sup>169</sup> They did not believe the allegation that Ziad was a terrorist. The US authorities did not respond to this offer of cooperation. In mid-August 2002, a new report on the victims' remains noted the DNA still had not been checked, because "little attention has been paid to the terrorists' remains."<sup>170</sup> While the AFIP announced to have positively identified the human remains of all "innocent" passengers and crew from the flights, they did not identify the remains of any individual suspect. Kelly said later: "The remains that didn't match any of the samples were ruled to be the terrorists".<sup>171</sup> Somerset County coroner Wallace Miller said that the "death certificates [for the suspected hijackers] will list each as 'John Doe'".<sup>172</sup>

As for the remains of the suspects who allegedly flew AA11 and UA175 into the Twin Towers, a spokeswoman for the New York Medical Examiner's Office, where the identification of the WTC victims took place, said to have received from the FBI in February 2003 "profiles of all 10 hijackers ... so their remains could be separated from those of victims." She added: "No names were attached to these profiles. We matched them, and we have matched two of those profiles to remains that we have."<sup>173</sup> In 2005, the number of matched samples increased to three.<sup>174</sup> Robert Shaler's medical examiner's forensic unit in New York could not identify the three by name. "No names, just a K code, which is how the FBI designates 'knowns,' or specimens it knows the origins of," Shaler wrote. "Of course, we had no direct knowledge of how the FBI obtained the terrorists' DNA." His statement was echoed later by his deputy, Howard Baum: "We had no idea where the profiles came from or how they were developed."<sup>175</sup> In 2009, Newsweek interviewed again Rober Shaler and others who continued in their efforts of identifying victims of 9/11 and the remains of the

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<sup>166</sup> Ibid.

<sup>167</sup> Amy Goldstein and Peter Finn, Hijack Suspects' Profile: Polite and Purposeful, Washington Post, September 14, 2001, Page A18

<sup>168</sup> CNN, 27 February 2003

<sup>169</sup> Robert Fisk, Stunned into disbelief as their 'normal' son is blamed, The Independent, 16 September 2001, <http://www.independent.co.uk/news/world/middle-east/stunned-into-disbelief-as-their-normal-son-is-blamed-669531.html>, cached at Doc.134-Jarrah.pdf

<sup>170</sup> Associated Press, 16 August 2002

<sup>171</sup> 'Remains Of Nine Sept. 11 Hijackers Held', CBS, 17 August 2002. Available at <http://www.cbsnews.com/stories/2002/08/17/attack/main519033.shtml>, mirrored at [http://www.aldeilis.net/english/index.php?option=com\\_content&task=view&id=2264&Itemid=107](http://www.aldeilis.net/english/index.php?option=com_content&task=view&id=2264&Itemid=107); Tom Gibb, 'FBI ends site work, says no bomb used', *Post-Gazette News*, 25 September 2001. Available at <http://www.post-gazette.com/headlines/20010925scene0925p2.asp>

<sup>172</sup> Tom Gibb, Flight 93 remains yield no evidence, *Post-Gazette News*, 20 December 2001. Cached at [http://www.aldeilis.net/english/index.php?option=com\\_content&task=view&id=1060&Itemid=107](http://www.aldeilis.net/english/index.php?option=com_content&task=view&id=1060&Itemid=107)

<sup>173</sup> 'Remains of 9/11 hijackers identified', *BBC*, 28 February 2003

<sup>174</sup> Paul D. Colford, 9/11 parts split by good and evil, *NY Daily News*, 12 October 2005

<sup>175</sup> Eve Conant, Nineteen hijackers died on 9/11. What should be done with what's left of them? Newsweek, January 12, 2009

“hijackers”. Yet, in spite of these efforts, “1,126 of the 2,751 victims from the World Trade Center and five individuals from the Pentagon have yet to be identified at all—none of their remains and no traces of their DNA have been found.”

No explanation was given where and how the FBI secured the “profiles” of these 10 individuals, why it took so long to hand them for identification and why they could not be identified by name. It is important to remember that according to the official account the alleged hijackers left numerous identifying documents and artefacts (see introductory section of this essay) including personal items, that were “luckily” found by the FBI, and from which DNA comparison samples could have been extracted to permit at least the positive identification of some of these individuals.

On August 18, 2009, the New York Times reported that that it is possible to “fabricate DNA evidence, undermining the credibility of what has been considered the gold standard of proof in criminal cases.”<sup>176</sup> According to this report, scientists in Israel “also showed that if they had access to a DNA profile in a database, they could construct a sample of DNA to match that profile without obtaining any tissue from that person.” For law-enforcement authorities to fabricate DNA evidence demands, obviously, that experts willingly participate in serious crime and risk thereby long prison sentences, if found out. This may explain why no attempts were made to fabricate DNA evidence in order to prove the presence of bodily remains of the 19 alleged Muslim hijackers at the crash sites.

The lack of positive identification of the alleged hijackers’ bodily remains, compounded by the lack of an established chain of custody of these remains, means that the US authorities have failed to prove beyond reasonable doubt that the alleged hijackers died on 9/11 at the known crash sites.

***(v) No evidence of Muslim hijackers in the planes***

As shown above, the US authorities have failed to prove that the 19 individuals accused of the mass murder of 9/11 had boarded the aircraft, which they allegedly used to commit the crime. No authenticated, original, passenger lists, bearing their names, have been released; no one is on record as having seen them board the aircraft; no video recordings documented their boarding; no boarding pass stub has been produced to prove their boarding; and their bodily remains have not been positively identified.

In the months following 9/11, reports appeared in mainstream media that some of the alleged hijackers were actually living in various Arab countries. These reports led to speculation that the identities of some of the hijackers were in doubt. Typical of such reports is an Associated Press dispatch of 3 November 2001, which states: "The FBI released the names and photos of the hijackers in late September. The names were those listed on the planes' passenger manifests and investigators were certain those were the names the hijackers used when they entered the United States. But questions remained about whether they were the hijackers' true identities. The FBI has not disclosed which names were in doubt and [FBI Director] Mueller provided no new information on the hijackers' identities beyond his statement to reporters." The 9/11 Commission did neither address at all these doubts nor the reports about the "living hijackers".

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<sup>176</sup> Andrew Pollack, DNA Evidence Can Be Fabricated, Scientists Show, The New York Times, 18 August 2009, [http://www.nytimes.com/2009/08/18/science/18dna.html?\\_r=4&partner=rss&emc=rss&pagewanted=print](http://www.nytimes.com/2009/08/18/science/18dna.html?_r=4&partner=rss&emc=rss&pagewanted=print)

On September 14, 2001, the FBI released the *names* of the 19 individuals "who have been *identified* as hijackers aboard the four airliners that crashed on September 11, 2001" (emphasis added).<sup>177</sup> On September 27, 2001, the FBI released *photographs* of these 19 individuals "*believed* to be the hijackers of the four airliners" (emphasis added).<sup>178</sup> Yet for most names no birth date, birthplace or specific residence is given despite the apparent availability of such data on visa application forms and other documentation possessed by the FBI. The webpage provides the following caveat: "It should be noted that attempts to confirm the true identities of these individuals are still under way." This statement still applies because the webpage has not been updated since it was initially posted and constitutes the US government's official listing of the alleged hijackers. Accordingly, a significant difference exists between the official position of the US government regarding the identities of the alleged hijackers of 9/11 and the popularized version promoted by politicians and the media to justify the aggression against Afghanistan and the "war on terror".

Not everyone is convinced that the above account disposes of the question whether or not Muslim fanatics hijacked planes on 9/11. It is sometimes argued that callers from the aircraft actually described a "hijacking operation" and the "hijackers" as Arab-looking. Two flight attendants from flight AA11 reportedly mentioned the "hijackers'" seat numbers, although they did not report having actually sighted them. A detailed examination of these phone calls, to the extent that their contents have been publicized, demonstrates, however, that the callers provided surprisingly little factual information regarding the actual execution of the hijackings. No caller described, for example, how the "hijackers" started their operation, nor how they succeeded to enter the cockpits of the four aircraft. A detailed examination of such phone calls would have been appropriate, had the identities of those who boarded the aircraft been conclusively established by *primary* evidence. Absent this primary evidence such secondary evidence cannot be considered as the proof for the presence of these "hijackers" on the aircraft. Incidentally, numerous questions remain unanswered regarding the location from which the phone calls were made and the circumstances under which the call were made.<sup>179</sup>

Another recurring challenge to our findings is the reliance upon the confession of a man claiming to be Khaled Sheikh Mohammed, reportedly detained at the Guantánamo base. According to his confession, released by the Department of Defense, he masterminded 9/11.<sup>180</sup> Here again, in the absence of primary evidence proving that the 19 "hijackers" actually boarded the aircraft which they hijacked and crashed, such claims by someone whose very identity is shrouded in mystery, who was no eyewitness to the boardings of the aircraft on 9/11 and whose confession may have been obtained by torture or bribes, cannot supplant primary evidence.

More than seven years have elapsed since the events of 9/11. The U.S. government had in those years sufficient time to prove the identities of the persons who allegedly boarded and crashed airplanes on 9/11, if any. If the official account on 9/11 were true, the U.S. government, more than anyone else, would have trumpeted this evidence in order to prove to the world, once and for all, who committed the crime. No one would have benefitted more from publicizing such evidence than the U.S. government.

<sup>177</sup> <http://www.fbi.gov/pressrel/pressrel01/091401hj.htm>

<sup>178</sup> <http://www.fbi.gov/pressrel/pressrel01/092701hjpgic.htm>

<sup>179</sup> David Ray Griffin, Reported Cell Phone Calls from the 9/11 Planes, Global Research, September 7, 2008, at <http://www.globalresearch.ca/index.php?context=va&aid=10103>; Rowland Morgan, The Impossible Phone Calls of 9/11, Global Outlook, Issue #13 (2009), p.136-140.

<sup>180</sup> Verbatim Transcript of Combatant Status Review Tribunal Hearing for ISN 10024, at [http://i.a.cnn.net/cnn/2007/images/03/14/transcript\\_ISN10024.pdf](http://i.a.cnn.net/cnn/2007/images/03/14/transcript_ISN10024.pdf); see also Robert Baer, Why KSM's Confession Rings False, Time Magazine, 15 March 2007, <http://www.time.com/time/world/article/0,8599,1599861,00.html>

While it is theoretically possible that the U.S. government secretly possesses the evidence that would prove its accusations against the 19 named “hijackers”, such possibility becomes less and less plausible as time passes. The total absence of evidence proving the guilt of Muslims for the crime of 9/11 gives rise to the following observations:

- (a) Due to the lack of evidence regarding the guilt of the 19 named Muslims for the crime of 9/11, it is unconscionable to link Muslims or Arabs to this crime. Any such accusations or insinuations amount to slander and represent an indirect form of racial incitement.
- (b) In view of harmful policies pursued by the U.S. government on the base of its alleged evidence, it is politically irresponsible to accord the US Government the benefit of the doubt by *presuming* the existence of hidden evidence proving the guilt of Muslims or Arabs in the crime.
- (c) The lack of evidence regarding the boarding of the four airliners that reportedly crashed on 9/11 and the failure of the U.S. government to formally prove its case, justify suspicion about its good faith in establishing the truth on the crime of 9/11.

### 8.3 Who were the victims?

The Armed Forces Institute of Pathology (AFIP) carried out the identification of the victims from the crashes of flights AA77 and UA93 after a "behind-the-scenes tug of war" between the FBI and the Virginia Chief Medical Examiner, Dr. Fierro, whose department was legally responsible for such work.<sup>181</sup> Attorney General John Ashcroft had to formally relieve her department of its responsibilities in this case.<sup>182</sup> It was never explained why it was crucial for the Pentagon or the Department of Justice to have such identifications conducted under the authority of the armed forces. Unidentified officials quoted by The Times in October 2001 were confident that "DNA tests would eventually identify all of the victims" from these crashes while the "bodies of the [terrorists] would also be identified, if only by a process of elimination."<sup>183</sup> According to the AFIP the human remains of all passengers and crew of flight UA93 were identified by 16 November 2001.<sup>184</sup> "All but four who worked in the Pentagon were identified. AFIP identified all but one of the passengers of Flight 77."<sup>185</sup>

The rate of victim identification in New York was much lower. The New York City Medical Examiner carried out the identification of the victims who died at the World Trade Center (WTC) in New York. By 2005, only 1595 victims of the 2,749 people known to have died at the WTC site – or 58 percent – were positively identified on the basis of recovered physical remains.<sup>186</sup> It has been difficult to identify the WTC victims because many bodies had been literally pulverized. In June 2006, human remains turned up on top of the Deutsche Bank Building, which stands about 400 feet to the south of the location of the former South

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<sup>181</sup> Avram Goldstein, ‘Searchers Work and Scientists Wait for Bodies’, *Washington Post*, 13 September 2001. Available at <http://www.washingtonpost.com/ac2/wp-dyn/A21056-2001Sep12>; US Dept. of Health and Human Services 7/2002, p. A-47

<sup>182</sup> Ibid.

<sup>183</sup> Damian Whitworth, ‘Hijackers’ bodies set Bush grisly ethical question’, *The Times (U.K.)*, 6 October 2001

<sup>184</sup> Christopher C. Kelly, ‘Experts ID 184 Pentagon Fatalities’, *Mercury*, an Army Medical Department publication, January 2002. Available at [http://911research.wtc7.net/cache/planes/evidence/afip\\_pentvictimid.htm](http://911research.wtc7.net/cache/planes/evidence/afip_pentvictimid.htm)

<sup>185</sup> Ibid.

<sup>186</sup> Phil Hirschhorn, ‘DNA technology exhausted, New York officials say’, *CNN*, 23 February 2005

Tower.<sup>187</sup> According to the Associated Press, most of the fragments were less than 1/16th inch in length.<sup>188</sup> The location of this finding and the size of the fragments gave rise to questions that remain unanswered.

#### **8.4 What were the tools of the crime?**

According to the official account, the tools of the crime were: (a) weapons used within the aircraft to overcome passengers and crew, and (b) the aircraft themselves as missiles.

##### ***(i) Weapons used within the aircraft***

According to the 9/11 Commission the suspects used only knives, mace and pepper spray in the aircraft. Although a draft report by the FAA mentioned the use of a gun in one of the aircraft,<sup>189</sup> the Commission insists that this draft was based on a misunderstanding. The 9/11 Commission actually spent significant efforts to prove that no gun had been used in the aircraft.<sup>190</sup> The stakes, evidently, were enormous since a discovered failure to detect a gun before boarding may have cost the airlines huge sums in compensation.<sup>191</sup>

According to the reported phone calls from the aircraft the alleged hijackers possessed and/or used knives, mace, pepper spray, a gun and a bomb, to threaten or attack passengers and crew. If we assume these phone calls as genuine and the callers as truthful, such reports would mean that these weapons had been taken aboard the aircraft past security check. This, in turn, would suggest either complicity of ground personnel in smuggling such weapons on board or a cover-up of security lapses.

While the investigators of 9/11 refuse to release the original evidence regarding the phone calls and fail to provide a plausible explanation for the callers' testimonies, the public is prevented from knowing the truth regarding the weapons used on board the four aircraft.

##### ***(ii) What aircraft crashed where?***

For each of the four crashed aircraft, eyewitnesses have come forward who claim to have seen an aircraft flying towards the target. A few witnesses claim to have recognized the livery of an American Airlines plane flying towards the Pentagon, but most eyewitnesses did not identify the type of aircraft which headed towards the crash sites and their testimonies conflict widely. Numerous independent researchers conclude, on the base of existing evidence, that no commercial aircraft crashed on the Pentagon. The dispute about what actually crashed there continues. Some researchers believe that the aircraft which allegedly crashed in Pennsylvania was actually shot down, as suggested by the fact that debris were found over many miles and by the puzzling absence of wreckage and bodies at the crash site. A few researchers who studied meticulously video recordings depicting the plane crash on the South Tower of the

<sup>187</sup> USA Today, 'More human remains found on roof next to World Trade Center site', 6 April 2006. Cached at

[http://911research.wtc7.net/cache/wtc/evidence/usatoday\\_morehumanremains.html](http://911research.wtc7.net/cache/wtc/evidence/usatoday_morehumanremains.html)

<sup>188</sup> Amy Westfeldt, More 9/11 bone fragments found, Associated Press, 13 April 2006. Cached at

[http://911research.wtc7.net/cache/wtc/evidence/usatoday\\_morewtcbonef.html](http://911research.wtc7.net/cache/wtc/evidence/usatoday_morewtcbonef.html)

<sup>189</sup> Paul Sperry, 'Hijacker shot passenger on Flight 11: FAA memo', *WorldNetDaily.com*, 27 February 2002, [http://www.worldnetdaily.com/news/article.asp?ARTICLE\\_ID=26626](http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=26626)

<sup>190</sup> 9/11 Commission Staff report, *supra* n. 152, at pp. 16-17

<sup>191</sup> Paul Sperry, *supra* n. 176

World Trade Center even claim that no plane crashed on the South Tower. According to them, these video recordings were faked.<sup>192</sup>

Although we assume, unless proven otherwise, that four aircraft did actually crash on 9/11, at least six reasons remain for not assuming anything definite about the identities of these aircraft and, by implication, the identities of the aircraft onto which the passengers and crew had boarded.

First, and crucially, the FBI did not produce any records explaining how the crashed aircraft was identified.<sup>193</sup> Yet, it should have been extremely easy to do so, because all aircraft parts carry serial numbers that can be traced to the aircraft's serial number.<sup>194</sup> According to Assistant U.S. Attorney General Patrick A. Rose, representing the FBI, no attempt was made by the FBI to *formally* identify the aircraft. The justification he provided was that "[t]he identities of the airplanes hijacked in the September 11 attacks was never in question."<sup>195</sup>

Second, video evidence that purports to represent aircraft targeting the World Trade Center and the Pentagon cannot determine the identity of this aircraft. Judicial Watch, an organization describing itself as a "conservative non-partisan educational foundation [that] promotes transparency, accountability and integrity in government, politics and the law", filed a Freedom of Information Act request on December 15, 2004, seeking all records pertaining to September 11, 2001 camera recordings of the Pentagon attack from the Sheraton National Hotel, the Nexcomm/Citgo gas station, Pentagon security cameras and the Virginia Department of Transportation.<sup>196</sup> But the Pentagon refused to release what it possessed. Judicial Watch initiated therefore a lawsuit on February 22, 2006 arguing that there was "no legal basis" for the Defense Department's refusal to release the only tape the Pentagon said to possess. On May 16, 2006, the Pentagon finally accepted to release two tapes that it claims show American Airlines 77 striking the Pentagon on 9/11.<sup>197</sup> Both are taken from almost the same angle and from far away; both are extremely blurred; both are undated; and neither of them allows to determine the type of aircraft appearing to move towards the Pentagon. The video recordings from the various other locations around the Pentagon have not been released. No video recording exists from the crash of flight UA93 near Shanksville. One blurred video recording is known to exist of the aircraft crash on the North Tower in New York.<sup>198</sup> It does not either allow to determine the type of aircraft. Numerous video recordings

<sup>192</sup> For an exposition of this theory, see Morgan Reynolds, 'We Have Some Holes in the Planes Theories', 5 March 2006. Available at [http://nomoregames.net/index.php?page=911&subpage1=we\\_have\\_holes](http://nomoregames.net/index.php?page=911&subpage1=we_have_holes); for a refutation of this theory, see Eric Salter, 'A Critical Review of WTC "No Plane" Theories', 29 September 2006. Available at <http://www.questionsquestions.net/WTC/review.html>

<sup>193</sup> Aidan Monaghan, FBI Records Chief Describes Unsuccessful Search for Identifying Records of 9/11 Aircraft Wreckage and Flight Data Recorders, August 26, 2008, at <http://911blogger.com/news/2008-08-27/fbi-records-chief-describes-unsuccessful-search-identifying-records-911-aircraft-wreckage-flight-data-recorders>

<sup>194</sup> George Nelson, Col. USAF (rt.), 'Impossible to Prove a Falsehood True: Aircraft Parts as a Clue to their Identity', *Physics 911* (undated) Available at <http://www.physics911.net/georgenelson>

<sup>195</sup> Aidan Monaghan, FBI Counsel: No Records Available Revealing ID Process Of Recovered 9/11 Plane Wreckage, March 17, 2008, at <http://911blogger.com/node/14406>

<sup>196</sup> Judicial Watch, Judicial Watch Obtains September 11 Pentagon Video, 16 May 2006. Available at <http://www.judicialwatch.org/5772.shtml>

<sup>197</sup> Judicial Watch, Defense Department Releases Two Videos of Flight 77 Crashing Into Pentagon, undated. Videos available at <http://judicialwatch.org/flight77.shtml>

<sup>198</sup> Scott Loughrey, A Review of '911' (9/2004) Available at [http://www.media-criticism.com/Naudet\\_Brothers\\_09\\_2004.html](http://www.media-criticism.com/Naudet_Brothers_09_2004.html); the Naudet Brothers' video can be watched at <http://www.youtube.com/watch?v=JYqEMBXc7mE>

were made of the aircraft crash on the South Tower (the second crash), although some independent researchers dispute the authenticity of these recordings<sup>199</sup>. Assuming these recordings as authentic, they do not, however, allow a visual identification of the aircraft type.

Third, local residents who rushed to the crash site at Shanksville reported to have been surprised to see no signs of an aircraft crash, no jet fuel smell, no bodies, just a hole in the ground.<sup>200</sup> According to the official account, the plane crashed almost vertically at more than 500 mph and disappeared completely into the soft ground. Yet debris were found miles from the crash site. According to at least one eyewitness, parts fell from the plane while it was still flying.<sup>201</sup> According to the FBI, however, about 95 percent of the aircraft was recovered from the crash scene.<sup>202</sup> The FBI did not forward the wreckage to the National Transportation Safety Board for a crash investigation but 'since [it] had no more use for it', turned it over, 12 days after the crash, to United Airlines<sup>203</sup>. Reporters were not allowed to document the recovery of the aircraft. No photographs of the recovered wreckage exist, therefore, in the public domain. Michael Renz of the German public television station ZDF tried to film the wreckage for a documentary. After asking United Airlines, he and his team "are told that the insurance company has the wreckage. But the responsible manager at that company is first in a meeting, then on a three-day business trip, which then becomes a several weeks-long intercontinental trip. During this time he cannot be reached by email or cell-phone— or so we are told by the secretary of one of the largest airline-insurance companies in the United States. After weeks and countless phone calls finally a brief answer: we do not have the wreckage. The FBI in Washington is in charge. The FBI press officer is surprisingly open and cooperative. There will be no interview about 9/11 but he will certainly give permission to film the wreckage. After all, the investigations have ended and there is no reason to exclude the public. Alas! The FBI no longer has the wreckage. It has been returned to United Airlines. Back to square one! Yes, we have the wreckage, says the airline after a new inquiry. But no permission to film. No reason given."<sup>204</sup> The producer describes similar difficulties when he tried to obtain permission to film inside a Boeing flight simulator or when he approached New York officials to ask them about the fireproofing in the WTC. "But when we talk with officials off-the-record, many say a gag-order has been handed from the top."<sup>205</sup>

Fourth, it was discovered in 2003 by Gerard Holmgren and ascertained by the present author that according to the BTS database of the US Department of Transportation (DoT), flight

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<sup>199</sup> A refutation of this claim is available at <http://www.livevideo.com/video/socialservice/6F393F4DE41C4CF798CBB438E6378129/september-clues-part1.aspx>

<sup>200</sup> Killtown, 'Did Flight 93 Crash in Shanksville?', <http://thewebfairy.com/killtown/flight93.html>

<sup>201</sup> James O'Toole, Tom Gibb and Cindi Lash, Investigators locate 'black box' from Flight 93; widen search area in Somerset crash, *Pittsburgh Post-Gazette*, September 13, 2001, at <http://www.post-gazette.com/headlines/20010913somersetp3.asp>; Debra Erdley, Crash debris founds 8 miles away, *Tribune-Review*, September 14, 2001, at [http://www.pittsburghlive.com/x/pittsburghtrib/s\\_12967.html](http://www.pittsburghlive.com/x/pittsburghtrib/s_12967.html); Robin Acton and Richard Gazarik, Human remains recovered in Somerset, *Tribune-Review*, September 13, 2001, at [http://www.pittsburghlive.com/x/pittsburghtrib/s\\_47536.html](http://www.pittsburghlive.com/x/pittsburghtrib/s_47536.html)

<sup>202</sup> Tom Gibb, *supra* n. 163/164

<sup>203</sup> *Ibid.*

<sup>204</sup> Kerstin Decker, 'Da ist was im Busch', *Tagesspiegel*, 11. September 2007, <http://www.tagesspiegel.de/medien-news/art15532,2376887>

<sup>205</sup> Barbara Möller, 'War es eine Verschwörung?' [Was it a conspiracy?], *Hamburger Abendblatt*, 11 September 2007, <http://www.abendblatt.de/kultur-live/article490137/War-es-eine-Verschwoerung.html>

AA11 and flight AA77 were not scheduled to fly at all on 11 September 2001 but were scheduled to fly on the preceding and subsequent days.<sup>206</sup> After Holmgren's discovery was publicized on the internet, the DoT hastily added the records for AA11 and AA77 flights on the 9/11, thereby raising the suspicion of a fraudulent manipulation of official records. Another discovered anomaly is that according to the BTS database, the aircraft, which reportedly crashed on the Pentagon (flight AA77, tail number N644AA), did not depart from Dulles Airport, Washington, as officially reported.<sup>207</sup>

Fifth, a group of six air traffic controllers working at the FAA center in Nashua recorded on tape what they had observed in the morning of 9/11. Their tape "was destroyed by a supervisor without anyone making a transcript or even listening to it (...) [He] crushed the cassette in his hand, shredded the tape and dropped the pieces into different trash cans around the building"<sup>208</sup> The controllers who recorded their stories were never identified or asked to re-record their impressions.

Sixth, the site at Shanksville is the only 9/11 "crash site" where no people on the ground were killed, only passengers and crew members. It means that any bodily remains would belong to either a passenger or a crew member of the crashed aircraft. Yet Wally Miller, country coroner at Somerset County, who was one of the first to arrive at the crash site where flight UA93 allegedly crashed, said that he "stopped being coroner after about 20 minutes, because there were no bodies there."<sup>209</sup> After weeks of combing the area, searchers found "about 1,500 mostly scorched samples of human tissue totaling less than 600 pounds" or about 8 percent of the total combined bodily weight of the aircraft's passengers, crew and hijackers.<sup>210</sup>

Yet items, such as a wedding ring and other jewelry, photos, credit cards, purses and their contents, shoes, a wallet and currency, were among personal effects salvaged from the site.<sup>211</sup> Craig Hendrix, of Douglass Air Disaster Funeral Coordinators said: "We have some property for most passengers".<sup>212</sup> Jerry and Beatrice Guadagno said that their son Richard's credentials and badge from the U.S. Fish and Wildlife Service had been found by the FBI at the crash site: "It was practically intact," Richard's sister, Lori, said of the credentials, which were returned in their wallet. "It just looked like it wasn't damaged or hadn't gone through much of anything at all, which is so bizarre and ironic".<sup>213</sup> Similarly strange findings were reported from the WTC and Pentagon "crash sites": Joseph Iskandar, the father of flight AA11 passenger Waleed Iskandar, told the Arctic Beacon in November 2005 from his home in Northridge, California, that four of his son's credit cards were found by the Ground Zero

<sup>206</sup> Gerard Holmgren, 'Evidence that Flights AA 11 and AA 77 Did Not Exist on September 11, 2001', 13 November 2003. Available at [http://www.serendipity.li/wot/aa\\_flts/aa\\_flts.htm](http://www.serendipity.li/wot/aa_flts/aa_flts.htm)

<sup>207</sup> The Flight Path Study – American Airlines Flight 77 by the NTSB, 19 February 2002, [http://www.nts.gov/info/Flight\\_%20Path\\_%20Study\\_AA77.pdf](http://www.nts.gov/info/Flight_%20Path_%20Study_AA77.pdf)

<sup>208</sup> Matthew L. Wald, 'FAA Manager Destroys Tape', *New York Times*, 6 May 2004. Cached at <http://pilotsfor911truth.org/WTC1.html>; Also 'Cassette Tape of 9/11 Controllers' Recollections Destroyed', *Air Safety Week*, 17 May 2004. Available at [http://findarticles.com/p/articles/mi\\_m0UBT/is\\_20\\_18/ai\\_n6264639/pg\\_1](http://findarticles.com/p/articles/mi_m0UBT/is_20_18/ai_n6264639/pg_1)

<sup>209</sup> Peter Perl, 'Hallowed Ground', *Washington Post*, 12 May 2002. Available at <http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A56110-2002May8&notFound=true>. Mirrored at [http://www.aldeilis.net/english/index.php?option=com\\_content&task=view&id=2262&Itemid=107](http://www.aldeilis.net/english/index.php?option=com_content&task=view&id=2262&Itemid=107)

<sup>210</sup> Ibid. According to other reports (*Washington Post*, 12 May 2002, *Canadian Press*, March 28, 2004) the recovered human remains weighed 510 pounds.

<sup>211</sup> Steve Levin, 'Flight 93 victims' effects to go back to families', *Post-Gazette*, 30 December 2001. Available at <http://www.post-gazette.com/headlines/20011230flight931230p3.asp>

<sup>212</sup> Ibid.

<sup>213</sup> Ibid.

Recovery Team in perfect condition and were anonymously mailed to him. The drivers license and credit card of Diane G. Barry, who died at Ground Zero, were recovered “relatively unscathed” but her remains were never found.<sup>214</sup>

Frank Calley, husband of Suzanne Calley, passenger on AA77, confirmed to Arctic Beacon, that he received his wife’s unblemished California ID card, driver’s license and wedding ring, found by Capt. Jim Ingledue of the Virginia Beach Fire Department at the Pentagon crash site. Mr Ingledue called this finding “highly unusual and strange...amidst all that devastation”. No explanation was given by the airlines, the FBI, the 9/11 Commission or the families for these highly unusual findings.

As reported above, the FBI did not formally establish the identities (tail numbers) of the crashed aircraft, and thus failed to determine the tool with which the more than 250 individuals listed as passengers and crew were killed. We have also shown that the FBI did not produce evidence documenting the boarding process at the various airports. It remains therefore unknown onto which aircraft (tail number) passengers and crew were asked to board, if they at all boarded onto any aircraft on 9/11.

## 8.5 What caused the deaths of the victims?

As the investigation failed to determine the identities of the aircraft onto which passengers and crew boarded, it follows that it could not determine the cause of their deaths. We will now examine whether the cause of death of the other victims of 9/11 was properly determined.

Workers at the Pentagon no doubt perished as a result of an explosion and fire, both of which have been reliably documented and were probably caused by a crashed airborne vehicle.<sup>215</sup>

Occupants of the World Trade Center died from numerous causes. Some victims died from the impact of an aircraft, others from fires and smoke. Some occupants jumped to their death, and some died from other incidental causes, including accidents. A substantial number of people, however, died when the buildings disintegrated. There is an ongoing dispute about the cause of disintegration, which prevents a final determination of what caused those deaths.

According to the official account, as presented in the Final Reports of the Federal Building and Fire Investigation of the World Trade Center Disaster conducted by the National Institute of Standards and Technology (NIST),<sup>216</sup> the Twin Towers collapsed due to structural failure caused by the fires and the damage from the aircraft's impact. Although other entities conducted similar studies, the \$20 million study by NIST, released in September 2005, represents the official position of the US government. NIST is an agency of the US Department of Commerce<sup>217</sup>, it is "the central government lab for fire"<sup>218</sup> and its director is a presidential appointee.<sup>219</sup>

<sup>214</sup> Family, Friends Remember Lost Loved Ones, Fox News, September 11, 2002, at <http://www.foxnews.com/story/0.2933.62663.00.html>

<sup>215</sup> ‘Pentagon Witness Accounts’. Available at <http://www.geocities.com/someguyyoudontknow33/witnesses.htm>; ‘Conflicting witnesses’. Available at <http://thewebfairy.com/killtown/flight77/witnesses.html>  
<http://wtc.nist.gov/pubs/>

<sup>216</sup> NIST website: <http://www.nist.gov/director/do2.htm>

<sup>217</sup> Alan Miller, ‘Former Chief of NIST’s Fire Science Division Calls for Independent Review of World Trade Center Investigation’, *OpEdNews.com*, 21 August 2007. Available at [http://www.opednews.com/articles/genera\\_alan\\_mil\\_070820\\_former\\_chief\\_of\\_nist.htm](http://www.opednews.com/articles/genera_alan_mil_070820_former_chief_of_nist.htm)

<sup>219</sup> NIST, William Jeffrey, Director, <http://www.nist.gov/director/bios/jeffrey.htm>

A growing number of independent researchers dispute the official theory presented by NIST. They argue that neither the fire nor the aircraft impact could have led to total structural failure, let alone in the short time that elapsed between the impact of the aircraft until the buildings disintegrated (South Tower: 56 minutes, North Tower: 102 minutes). They point out that such buildings have never collapsed due to fire, including much fiercer, larger and longer fires. Most of these skeptics suggest that the Twin Towers were demolished by explosives planted in the buildings in advance<sup>220</sup> or, as a few of them maintain, by more exotic means, only available to the military.<sup>221</sup> Both groups of skeptics base their theory on observed facts, including the minute size of body fragments collected from Ground Zero<sup>222</sup>, the absence of body parts for hundreds of victims<sup>223</sup>, the pulverization of a substantial mass of the buildings into extremely fine dust,<sup>224</sup> testimonies by more than 100 fire-fighters and rescue workers of multiple, pre-collapse explosions in the buildings, including in the sub-basement,<sup>225</sup> photographic evidence of explosions,<sup>226</sup> evidence that heavy steel beams were ejected at high speed from the buildings<sup>227</sup>, the near free-fall speed of the buildings<sup>228</sup>, the unexplained presence of molten metal in Ground Zero weeks after the events<sup>229</sup> and the apparently puzzling damage to dozens of cars.<sup>230</sup> The sudden, total, free-fall collapse of WTC no. 7 in the afternoon of 11 September into its own footprint – a 47-floor steel-framed building that was not hit by an aircraft – is widely considered as the ultimate proof of pre-planned, controlled demolition.<sup>231</sup>

In response to growing doubts about the official theory of WTC collapses and particularly the unexplained implosion WTC no. 7, NIST issued on 30 August 2006 a document entitled

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- <sup>220</sup> Tony Szamboti, 'The Sustainability of the Controlled Demolition Hypothesis for the destruction of the Twin Towers', *Journal of 911 Studies*, Vol. 11, May 2007. Available at <http://www.journalof911studies.com/volume/200704/SzambotiSustainabilityofControlledDemolitionHypothesisForDestructionofTwinTowers.pdf>
- <sup>221</sup> Judy Wood and Morgan Reynolds, 'Star Wars Beam Weapons', 15 December 2006. Available at <http://drjudywood.com/articles/DEW/StarWarsBeam1.html>
- <sup>222</sup> N.J. Burkett, 'Inside the WTC remains DNA lab', *ABC Local*, 27 October 2006. Available at [http://abclocal.go.com/wabc/story?section=9\\_11&id=4703667](http://abclocal.go.com/wabc/story?section=9_11&id=4703667)
- <sup>223</sup> Dan Barry, 'At Morgue, Ceaselessly Sifting 9/11 Traces', *American Memorial Tribute* (probably July 2002). Available at [http://werismyki.com/artcls/ceaselessly\\_sifting.html](http://werismyki.com/artcls/ceaselessly_sifting.html)
- <sup>224</sup> David Ray Griffin, 'The destruction of the World Trade Center: Why the official account cannot be true', 29 January 2006. Available at <http://www.globalresearch.ca/index.php?context=viewArticle&code=GRI20060129&articleId=1846>
- <sup>225</sup> Graeme MacQueen, '118 Witnesses: The Firefighters' Testimony to Explosions in the Twin Towers', *Journal of 911 Studies*, Vol. 2., August 2006. Available at [http://www.journalof911studies.com/articles/Article\\_5\\_118Witnesses\\_WorldTradeCenter.pdf](http://www.journalof911studies.com/articles/Article_5_118Witnesses_WorldTradeCenter.pdf)
- <sup>226</sup> Crockett Grabbe, 'Direct Evidence for Explosions, Flying Projectiles and Widespread Impact Damage', *Journal of 911 Studies*, Vol. 14, August 2007. Available at <http://www.journalof911studies.com/volume/200704/GrabbeExplosionsEvidence.pdf>
- <sup>227</sup> Kevin Ryan, 'High Velocity Bursts of Debris from Point-Like Sources in the WTC Towers', *Journal of 911 Studies*, Vol. 14, August 2007. Available at [http://www.journalof911studies.com/volume/2007/Ryan\\_HVBD.pdf](http://www.journalof911studies.com/volume/2007/Ryan_HVBD.pdf)
- <sup>228</sup> Frank Legge, '9/11 – Acceleration Study Proves Explosive Demolition', *Journal of 911 Studies*, Vol. 5, November 2006. Available at <http://www.journalof911studies.com/volume/200611/911-Acceleration-Study-Proves-Explosive-Demolition.pdf>
- <sup>229</sup> 'Workers Reported Molten Metal in Ground Zero Rubble', *9-11 Research*. Available at <http://911research.wtc7.net/wtc/evidence/moltensteel.html>
- <sup>230</sup> Judy Wood and Morgan Reynolds, 'The Star Wars Beam Weapons ("Toasted Cars")', July 11, 2007, at <http://www.drjudywood.com/articles/DEW/StarWarsBeam5.html>
- <sup>231</sup> <http://www.wtc7.net>; <http://www.studyof911.com/articles/winstonwtc701/>; <http://www.studyof911.com/articles/winstonwtc7collapse/>; <http://www.whatreallyhappened.com/wtc7.html>;

Answers to Frequently Asked Questions (FAQ), which it posted on its website<sup>232</sup>. David Ray Griffin published a detailed rebuttal of the NIST study and its FAQ.<sup>233</sup> On August 21, 2008, NIST released a Draft for Public Comment regarding its investigation of WTC's collapse.<sup>234</sup> On November 20, 2008, NIST released its Final Report on this issue.<sup>235</sup> After examining in detail the various NIST reports on the collapses of the World Trade Center buildings, author David R. Griffin, an eminent academic with impeccable scholarly credentials, and author of a book on the collapse of WTC7<sup>236</sup>, says about the NIST's Final Report on WTC7 that it "repeatedly makes its case by resorting to scientific fraud."<sup>237</sup> He accuses NIST of fabrication, meaning "making up results" and falsification, meaning "changing or omitting data." He then proceeds to provide numerous examples of such fraud, a recitation of which would vastly exceed the scope of this study.

The fact that NIST's investigators did not attempt to evaluate the testimonies of the witnesses who reported to have seen, heard or experienced multiple explosions in the Twin Towers and the WTC7 prior to collapse<sup>238</sup>, failed to explain the pulverization of a substantial part of the Twin Towers and the presence of molten metal under the ruins and failed to explain how the Twin Towers and WTC7 could collapse at almost free-fall speed,<sup>239</sup> shows that NIST failed to conduct its investigation in accordance with established scientific principles but tailored its findings to fit the government's account.<sup>240</sup>

Over 90 percent of 9/11 victims died at the World Trade Center complex. It is therefore of crucial importance to know what caused the unexpected disintegration of the Twin Towers and the collapse of WTC7. A satisfactory theory for the disintegration/collapse of these buildings must take into account all observed facts and be compatible with physical principles. Until such theory is produced, the cause of death of most victims at the World Trade Center cannot be determined.

## 8.6 Thoroughness of investigation: The Final Report of the 9/11 Commission

Introducing the Final Report of the 9/11 Commission, Chairman Kean and Vice Chairman Hamilton wrote that the Commission "to be independent, impartial, thorough, and nonpartisan".<sup>241</sup> In a scathing and detailed critique of the Commission's work,<sup>242</sup> David Ray Griffin demonstrates that the Commission was neither independent nor impartial. Griffin lists

<sup>232</sup> Final Reports of the Federal Building and Fire Investigation of the World Trade Center Disaster, *National Institute of Standards and Technology (NIST)* available at [http://wtc.nist.gov/reports\\_october05.htm](http://wtc.nist.gov/reports_october05.htm); Answers to Frequently Asked Questions, NIST available at [http://wtc.nist.gov/pubs/factsheets/faqs\\_8\\_2006.htm](http://wtc.nist.gov/pubs/factsheets/faqs_8_2006.htm); and Kevin Ryan, Response to NIST's FAQs available at [http://stj911.org/ryan/NIST\\_Responses.html](http://stj911.org/ryan/NIST_Responses.html)

<sup>233</sup> David Ray Griffin, *Debunking 9/11 Debunking: An Answer to Popular Mechanics and Other Defenders of the Official Conspiracy Theory* (Northampton: Olive Branch Press, 2007), pp. 143-206

<sup>234</sup> NIST NCSTAR 1A Report on the Collapse of World Trade Center Building 7, Draft for Public Comment, at [http://wtc.nist.gov/media/NIST\\_NCSTAR\\_1A\\_for\\_public\\_comment.pdf](http://wtc.nist.gov/media/NIST_NCSTAR_1A_for_public_comment.pdf)

<sup>235</sup> Final Report on the Collapse of World Trade Center Building 7, NIST, NCSTAR 1A, at <http://wtc.nist.gov/NCSTAR1/PDF/NCSTAR%201A.pdf>

<sup>236</sup> David Ray Griffin, *The Mysterious Collapse of World Trade Center 7: Why the Final Official Report About 9/11 Is Unscientific and False*, Interlink Publishing (2009)

<sup>237</sup> David Ray Griffin, *The Mysterious Collapse of WTC Seven*, Global Research, September 14, 2009, at <http://www.globalresearch.ca/index.php?context=va&aid=15201>

<sup>238</sup> Ibid. p. 175; see in particular Graeme MacQueen, *supra* n. 208

<sup>239</sup> Alan Miller, *supra* n. 201

<sup>240</sup> David Ray Griffin discovered that while in its Draft Report, NIST qualified its calculations of the fall of the 18 top floors of WTC 7 as "consistent with physical principles", this reference to "physical principles" was not included in the Final Report.

<sup>241</sup> Final Report of the 9/11 Commission, *supra* n. 147 at p. xv

<sup>242</sup> David Ray Griffin, *The 9/11 Commission Report: Omissions and Distortions. supra* n. 74

over 100 facts omitted from the Final Report because their inclusion would have undermined the official account on 9/11.<sup>243</sup> The Commission, on the other hand, relied heavily on unverified information allegedly obtained from al Qaeda members in US custody. The Commission acknowledges that its "access to [the detainees] has been limited to the review of intelligence reports based on communications received from the locations where the actual interrogations take place." The Commission "submitted questions for use in the interrogations, but had no control over whether, when, or how questions of particular interest would be asked." Nor were Commission members "allowed to talk to the interrogators ...to better judge the credibility of the detainees and clarify ambiguities in the reporting."<sup>244</sup>

According to the guidelines included in the "Minnesota Protocol"<sup>245</sup>, a Commission of Inquiry established to investigate gross human rights violations "shall assess all information and evidence it receives to determine its relevance, veracity, reliability and probity."<sup>246</sup> The 9/11 Commission failed to assess the veracity, reliability and probity of evidence it received from the CIA regarding the al Qaeda detainees and the evidence it received from the FBI regarding the identities of the alleged perpetrators, the tools of crime and the phone calls from the airplanes.

As for the thoroughness of the 9/11 Commission's work, Griffin writes: "The [Commission's Final] report's lack of thoroughness is, in fact, one of its outstanding characteristics"<sup>247</sup>. He cites a letter to the US Congress by 25 individuals "who worked within various government agencies (FBI, FAA, DIA, Customs) responsible for national security and public safety" in which these authors designate "[o]mission [as] one of the major flaws in the Commission's report."<sup>248</sup>

## 9. Was the Investigation Transparent?

The whole official approach to 9/11, including its investigation, has been characterized by secrecy. When challenged, this secrecy was justified by invoking the need to respect the privacy of victims' families, national security considerations and the need to withhold evidence until the trial of Zacharias Moussaoui. Yet, in order to maintain confidence in the justice system, particularly in a case of a massive crime such as 9/11, the transparency of the investigation must be regarded as an overriding consideration. In none of the cases mentioned in this article were national security considerations invoked by the US government. Zacharias Moussaoui's trial is over. The only remaining justifications for continued secrecy are privacy considerations. These only apply to some of the documents mentioned in this article and only to the extent that the concerned individuals would have requested to have certain documents sealed. But even if some individuals desire that documents be sealed to protect their feelings, courts would still have the duty to weigh such privacy considerations against the right of society to know the truth on major events such as 9/11.

We have already mentioned the failure by the US administration to produce the original passenger lists, authenticated security video recordings, documents identifying the crashed aircraft, depositions by recipients of phone calls from the aircraft and by air flight controllers, recordings of crucial phone calls made from the aircraft, a true transcript of the CVR from

<sup>243</sup> David Ray Griffin, 'The 9/11 Commission Report: A 571-Page Lie', 22 May 2005, *911Truth.Org*. Available at <http://www.911truth.org/article.php?story=20050523112738404>

<sup>244</sup> Final Report of the 9/11 Commission, *supra* n. 147 at p. 146 (box)

<sup>245</sup> 'Minnesota Protocol', *supra* n. 19

<sup>246</sup> 'Minnesota Protocol', *supra* n. 19, at Article 14

<sup>247</sup> Griffin, *supra* n. 74 at 12

<sup>248</sup> Griffin, *supra* n. 74 at 12-13

Flight UA93 and evidence about the boarding process. The release of such documents would not have undermined national security, the "war on terrorism" or a fair trial. The following two examples illustrate the nature of official fear of disclosure.

On 18 April 2002, the FBI invited victims' families to listen to the CVR from Flight UA93. Department of Justice prosecutors "exhorted families not to describe the tapes' contents because they will be played as evidence in the terrorism conspiracy trial of Zacarias Moussaoui."<sup>249</sup> FBI agents "asked the relatives to surrender all cell phones, palm pilots and pagers to prevent the recording of any of the day's proceedings."<sup>250</sup> After the session, the family members left "under the escort of New Jersey state troopers and federal agents, who walked them to their cars and shielded them from reporters."<sup>251</sup> The CVR recording was played during the Moussaoui trial at the specific request of the prosecution in order to impress the jury.<sup>252</sup> The trial judge decided, upon the request of an unidentified family member, to reseal the recording after it was played.<sup>253</sup>

In 2004, the FBI finally agreed to play recordings of some phone calls from the aircraft for victims' families. They had to "sign nondisclosure agreements and were not permitted to take notes. Civil attorneys and the media were barred. FBI agents filled the halls of the hotel [where the presentation took place] and took any camera or recording equipment before people were admitted to the [presentation]. Those who left the three-and-a-half-hour session to relieve themselves were accompanied into rest rooms by agents."<sup>254</sup> According to published accounts, the FBI possesses partial or entire recordings of phone calls made from the aircraft by five callers.<sup>255</sup> Except for four minutes of the phone call reportedly made by flight attendant Betty Ong from flight AA11 and played at a 9/11 Commission hearing, the other recordings have never been played publicly and have not been released.

Contrary to what could have been expected, the FBI did not issue a public report describing its investigation.<sup>256</sup> Its website provides virtually no information about the investigation of 9/11 entitled PENTTBOM.<sup>257</sup>

Another problem facing the public is the difficulty of locating witnesses to the events. Neither the US government nor the airlines have been willing to assist independent investigators in locating such witnesses, such as airline employees who had witnessed the events of 9/11.

The above facts represent a small sample of attempts by the US administration to prevent the truth on what happened on the day of 11 September 2001 from becoming known.

<sup>249</sup> Phil Hirschhorn and David Mattingly, 'Families say Flight 93 tapes prove heroism', *CNN*, 19 April 2002. Available at <http://edition.cnn.com/2002/US/04/19/rec.flight.93.families/>

<sup>250</sup> Ibid.

<sup>251</sup> Ibid.

<sup>252</sup> United States of America v Zacarias Moussaoui, Government submission regarding relevance of cockpit voice recorders. Available at <http://news.findlaw.com/hdocs/docs/moussaoui/usmouss92402gcvrsub.pdf>

<sup>253</sup> See, [http://capitaldefenseweekly.com/library/moussaoui/1\\_01-cr-00455/docs/72176/0.pdf](http://capitaldefenseweekly.com/library/moussaoui/1_01-cr-00455/docs/72176/0.pdf)

<sup>254</sup> Gail Sheehy, '9/11 Tapes Reveal Ground Personnel Muffled Attacks', *New York Observer*, 20 June 2004. Available at <http://www.observer.com/pages/frontpage2.asp>

<sup>255</sup> Ibid.

<sup>256</sup> <http://www.fbi.gov/pressrel/penttbom/penttbomb.htm>

<sup>257</sup> 9/11 Investigation (PENTTBOM) at <http://www.fbi.gov/pressrel/penttbom/penttbomb.htm>

## 10. Was the investigation independent?

According to international norms of human rights, investigators who are in any way dependent upon the subjects of their investigation are not competent to investigate their subjects. The FBI and NIST are agencies financially dependent upon the US government and their directors are presidential appointees.

Should the US government or some parts thereof have been one of the subjects of the 9/11 investigation? According to over 100 senior U.S. military officers, intelligence services and law enforcement veterans, and former government officials, the answer is yes. These experts have expressed their belief that leading members of the Bush administration have not told the truth on 9/11 or have actually been complicit in 9/11.<sup>258</sup> Numerous survivors and victims' family members have demanded a new, truly independent, investigation of 9/11 because their disillusionment with the work of the 9/11 Commission.<sup>259</sup> And according to a July 2006 poll conducted by Scripps News Service, one-third of Americans think that the Bush administration either carried out the 9/11 attacks or intentionally allowed them to happen in order to provide a pretext for wars in the Middle East.<sup>260</sup> In the light of such extensive suspicions of the Bush administration, an independent investigation of 9/11 could not be carried out by an agency run by Bush appointees.

To the extent that Al Qaeda has been named as a prime suspect with regard to 9/11 and the fact that the FBI had previously attempted to obstruct investigations of Al Qaeda links, the impartiality of the FBI to investigate 9/11 could not be presumed.<sup>261</sup> Substantial evidence suggests that the lack of zeal by the FBI in going after Al Qaeda suspects did not originate from within the agency.<sup>262</sup> According to the New York Times of October 9, 2001:

Some officials suggest that Mr. Ashcroft has in effect taken command of F.B.I. operations along with Mr. Mueller [FBI's Director], often spending hours a day in the

<sup>258</sup> Patriots Question 9/11. Available at <http://www.patriotsquestion911.com/>

<sup>259</sup> Survivors and Family Members Question 9/11. Available at <http://www.patriotsquestion911.com/survivors.html>

<sup>260</sup> Christopher Hayes, 'The 9/11 Truth Movement's Dangers', *CBS News*, 10 December 2006. Available at <http://www.cbsnews.com/stories/2006/12/08/opinion/main2242387.shtml>

<sup>261</sup> Kim Bredesen, 'Was the FBI investigation blocked?', *Le Monde Diplo (Norway)*, August 2006. Available at <http://www.eurozine.com/articles/2006-08-28-bredesen-en.html>; Frederic Whitehurst, 'FBI Lab Whistleblower Testifying at the WTC Bombing Trial', 14 August 1995, at [http://www.public-action.com/SkyWriter/WacoMuseum/death/tscr/whitehur/fw\\_test.html](http://www.public-action.com/SkyWriter/WacoMuseum/death/tscr/whitehur/fw_test.html); also Richard A. Serrano, 'The man who caught Zacarias Moussaoui testifies that higher-ups blocked his efforts to determine whether there was a larger plot', *Los Angeles Times*, 21 March 2006. Cached at <http://www.commondreams.org/headlines06/0321-11.htm>; Phil Brennan, 'Congressman: FBI Ignored Repeated Warnings', *NewsMax.com*, 24 December 2001. Available at <http://www.newsmax.com/archives/articles/2001/12/23/113839.shtml>; Jerry Seper, 'Angry FBI agents joked about al Qaeda mole at HQ', *Washington Times*, 25 May 2002, Available at [http://prisonplanet.com/Angry\\_FBI\\_agents\\_joked\\_about\\_al\\_Qaeda\\_mole\\_at\\_HQ.htm](http://prisonplanet.com/Angry_FBI_agents_joked_about_al_Qaeda_mole_at_HQ.htm) Jerry Seper, 'Angry FBI agents joked about al Qaeda mole at HQ', *Washington Times*, 25 May 2002, Available at [http://prisonplanet.com/Angry\\_FBI\\_agents\\_joked\\_about\\_al\\_Qaeda\\_mole\\_at\\_HQ.htm](http://prisonplanet.com/Angry_FBI_agents_joked_about_al_Qaeda_mole_at_HQ.htm); Steve Fainaru and James V. Grimaldi, 'FBI Knew Terrorists Were Using Flight Schools', *Washington Post*, 23 September 2001, Page A24. Cached on [http://www.prisonplanet.com/fbi\\_knew\\_terrorists\\_using\\_flight\\_schools.html](http://www.prisonplanet.com/fbi_knew_terrorists_using_flight_schools.html); John J. Loftus, 'What Congress Does Not Know about Enron and 9/11', 31 May 2002. Available at <http://www.john-loftus.com/enron3.asp> Martin Dillon, 'Tribute To John P. O'Neill – An FBI Agent Who Stood Tall', 27 May 2002, *Globe-Intel*. Available at <http://www.rense.com/general25/tall.htm>; Dana Bash, Kelli Arena and David Ensor, 'Hijackers' ex-landlord was FBI informant', *CNN*, 11 September 2002, at <http://edition.cnn.com/2002/US/09/11/ar911.hijackers.landlord/>

<sup>262</sup> See, inter alia, Nafeez Mosaddeq Ahmed, *The War on Truth: 9/11, Disinformation and the Anatomy of Terrorism* (Northampton: Olive Branch Press, 2005), Chapter 4

40,000-square-foot Strategic Information and Operations Center at F.B.I. headquarters. (...) Mr. Mueller appears to be far more willing to coordinate his decision-making with Mr. Ashcroft, a role that Mr. Mueller played earlier this year when he temporarily took the job as deputy attorney general. In part, Mr. Mueller owes his appointment to Mr. Ashcroft. It was Mr. Ashcroft who urged President Bush to select Mr. Mueller and lobbied for him even when Bush aides appeared to want to look elsewhere.<sup>263</sup>

Taking into account the above record, the FBI could not be expected to carry out an impartial investigation of 9/11.

## 11. Was the Motive of the Crime Investigated?

When a building intended for demolition is suddenly wasted by fire and the owner subsequently collects a large insurance payment, he is justifiably suspected of arson. Identifying the underlying motives for a crime is one of the means to expedite a criminal investigation.

In the case of 9/11, it was not obvious who instigated, planned, directed and financed the crime. When questions arise as to the identities of those who orchestrate a crime, investigators inquire into their possible motives. They would typically assess the benefits the suspects might have expected from the crime (*cui bono*). Such potential suspects would then be selected for a more detailed investigation. While there is no evidence that any Muslim or Arab organization or state gained anything from the events of 9/11, there is ample evidence that the US government and a whole range of corporations and individuals gained from these events. The events of 9/11 allowed the US government to implement policies and measures which had already been on the drawing board, including attacks on Afghanistan and Iraq, increased defense appropriations and the transformation of the military proposed by the Project for a New America Century.<sup>264</sup> Yet the 9/11 Commission did not shed any light on the possible motives of the suspects, whoever they might have been.

## 12. Did the Investigation of 9/11 Result in Prosecutions?

The criminal investigation of 9/11 did not result in the prosecution of anyone who had instigated, planned, directed, facilitated or executed the crime of 9/11. The only person the U.S. government attempted to link with the events of 9/11 was Zacarias Moussaoui, a mentally disturbed person who was arrested before 9/11.<sup>265</sup> After a long trial, marred by numerous irregularities,<sup>266</sup> he was sentenced to life imprisonment, but not for facilitating 9/11.<sup>267</sup> Another person convicted in relation to 9/11, was Mounir el Motassadeq. He was sentenced to 15 years imprisonment by a Hamburg (Germany) Court as “accessory to mass

<sup>263</sup> Philip Shenon and David Johnson, *supra* n. 64

<sup>264</sup> See in particular, *Rebuilding America's Defenses: Strategy, Forces and Resources For a New Century*, Project for a New American Century, September 2000, at <http://www.newamericancentury.org/RebuildingAmericasDefenses.pdf>

<sup>265</sup> ‘Timeline: The Case Against Zacarias Moussaoui’, *NPR Legal Affairs*. Available at <http://www.npr.org/templates/story/story.php?storyId=5243788>

<sup>266</sup> Elias Davidsson, ‘Is Zacarias Moussaoui's "admission of guilt" legally valid?’, 17 July 2005; ‘Open Letter to Judge Brinkema’, 17 March 2006; and ‘Moussaoui is innocent!’, 4 May 2006. Available at [http://www.aldeilis.net/english/index.php?option=com\\_content&task=view&id=1948&Itemid=107](http://www.aldeilis.net/english/index.php?option=com_content&task=view&id=1948&Itemid=107)

<sup>267</sup> ‘Moussaoui moves to withdraw guilty plea’, *CNN Law Center*, 12 May 2006. Available at <http://edition.cnn.com/2006/LAW/05/08/moussaoui.ap/index.html>

murder” for allegedly helping to cover-up the alleged plot of his friends, Mohamed Atta and Marwan Alshehhi, two of the alleged hijackers of 9/11. He consistently denied to have had any inkling of his friends’ involvement in a terrorist plot. He said he lost contact with them more than a year before 9/11, a fact admitted by the court. The court failed to investigate whether Mounir’s friends actually committed the crime. It relied on explanations provided by an FBI official, who did not testify under oath and refused to answer numerous questions by defence counsel, invoking immunity. Due to the blatant unfairness of his trial, an international petition was initiated to demand a retrial or his release.<sup>268</sup> Although two alleged Al Qaeda leaders, Khalid Sheikh Mohammed and Ramzi Binalshibh, officially accused of having masterminded the events of 9/11, have been in US custody for more than 6 years, they have neither been charged nor presented before a judge.

### 13. Conclusions

The events of 9/11 were the deadliest single attack on US soil for over a century. It will be recalled that FBI Director Robert S. Mueller promised in 2001 to "leave no stone unturned in our quest to find those responsible and bring those individuals to justice".<sup>269</sup> Years have elapsed and no one has been charged, let alone convicted as a true accomplice to the crime. The investigation of 9/11 must therefore be considered a dismal failure, even by FBI's own standards.

The former chairman and vice-chairman of the 9/11 Commission, Tom Kean and Lee Hamilton, have belatedly admitted in a book they authored together that the American people have not been told the whole truth on 9/11.<sup>270</sup>

We set out to assess the investigation of 9/11 in the light of human rights norms as refined through the jurisprudence of human rights courts regarding criteria to assess investigations of human rights violations, particularly the deprivation of life.

Far from being effective, the investigators of 9/11 did not prove the perpetrators' identities and culpability, did not positively identify the tools of the crime (alleged to be four aircraft), the location where approximately 250 of the victims (the passengers and crew of the four aircraft) died, and the reasons for the sudden disintegration of the skyscrapers that caused most deaths. The investigators also failed to bring to trial any true accomplice to the crime. The lack of transparency during the investigation and the continuing concealment of evidence, years after the events, have prompted wide and increasing distrust in the investigation and in the official account regarding the events.<sup>271</sup>

States bear an obligation to establish the truth on gross violations of human rights committed within their jurisdiction. Moreover, internationally adopted standards exist which permit an objective assessment of the adequacy of official investigations into alleged gross violations of human rights. There exist, however, impediments to the right to the truth other than those resulting from inadequate investigations. Such impediments include: compensation schemes

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<sup>268</sup> See International Campaign for Mounir at [www.justiceformounir.org](http://www.justiceformounir.org) It contains a summary, an interview with one of his lawyers and the Judgement (in German)

<sup>269</sup> Dan Eggen, *supra* n. 61

<sup>270</sup> Christine Romans, ‘Lou Dobbs Tonight (Show)’, *CNN*, 9 August 2006. Transcript available at <http://transcripts.cnn.com/TRANSCRIPTS/0608/09/ldt.01.html>

<sup>271</sup> See, in particular, the long list of eminent personalities who challenge the official account, posted on Patriots for 9/11 Truth, at <http://www.patriotsquestion911.com/>

designed to prevent judicial discovery procedures<sup>272</sup>, plea bargains<sup>273</sup>, statutes of limitations, State and official immunities, prohibitions of retrospective application of criminal law even when the conduct was criminal under international law at the time it occurred, political interference with decisions to investigate and prosecute and stipulations by which defendants and prosecutors agree to recognize certain facts, even if these facts are untrue or unproven. These additional impediments to the truth have not be examined in this article, although some of these have also been used to prevent the establishment of the truth on 9/11.

The truth on 9/11 is being held captive. Victims of 9/11 and civil society as a whole are entitled to the truth both on moral and legal grounds. There are additionally compelling political reasons to insist that the full truth be established. The events of 9/11 have provided an ideological justification for the erosion of constitutional rights and the rule of law. They have also been used to justify military aggression and foreign intervention. When a government is unwilling to properly investigate a mass murder committed on its own territory, civil society must take the initiative to establish the truth and restore the constitutional order.

END

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<sup>272</sup> Tim Harper, 'Families Sue U.S., Reject 9/11 "Bribe"', *Toronto Star*, 23 December 2004. Available at <http://www.commondreams.org/headlines03/1223-02.htm>;

<sup>273</sup> See, for example, Ilana Mercer, 'Truth obscured in Johnny Jihad's plea bargain', *WorldNetDaily*, 9 October 2002. Available at [http://www.wnd.com/news/article.asp?ARTICLE\\_ID=29220](http://www.wnd.com/news/article.asp?ARTICLE_ID=29220); Scott Horton, 'The Plea Bargain of David Hicks', *Harper's Magazine*, 2 April 2007. Available at <http://www.harpers.org/archive/2007/04/horton-plea-bargain-hicks>; George Jonas, 'Truth is the first casualty of plea bargains', *National Post*, 29 May 2007. Available at [http://www.georgejonas.com/recent\\_writing.cfm?id=538](http://www.georgejonas.com/recent_writing.cfm?id=538)