

## **How to Prosecute a President: Frequently Asked Questions**

By Charlotte Dennett

Dear Friends and Patriots:

These FAQs are based on questions that Vincent Bugliosi and I encountered during my campaign for Attorney General last fall and more recently, during interviews and public appearances.

After recently conferring with Mr. Bugliosi, I put these FAQs together to assist you should you want to approach a local DA and encourage him or her to prosecute Bush for sending soldiers to Iraq under false pretenses. Every DA in every county where a soldier died has now received a copy of Bugliosi's book, *The Prosecution of George W. Bush for Murder*. All 50 attorneys general have also received copies.

Good luck, and if you have a story to report on your efforts, either via personal approaches, letters to the editor or petitions, please feel free to share them by emailing me at charlottedennett@gmail.com.

We can all learn from each other as we let our prosecutors know that we demand justice and accountability from our elected officials.

### **Q: What's the difference between petitioning an Attorney General and petitioning a District Attorney (or State's Attorney)?**

A: If you approach a DA, you will have to show that someone in his or her district lost a soldier/s to the war in Iraq. If you approach an Attorney General, whose authority covers the entire state, you simply have to show that soldiers in your state (regardless of district) lost a soldier/s in Iraq.

### **Q: Is it necessary to have surviving family members request prosecution?**

A: No, it is not necessary. But it would have a greater impact.

### **Q: Should survivors be asked if their loved ones were intentionally murdered by George Bush?**

A: They will most likely be asked this by the media, but in a court of law, the survivor's state of mind is legally irrelevant. The legal victim in a criminal case is not the lay person who suffered from the crime, but the people of the state.

### **Q: How can you convince a prosecutor to take this on at a time of severe budget cuts?**

A: The cost of a prosecution can be supplemented by outside assistance from private sources. This is not without precedent. For example, New Orleans District Attorney Jim Garrison sought and received outside funding to support his prosecution in the conspiracy to commit murder charge against Clay Shaw in the John F. Kennedy assassination.

### **Q: Could this case be considered politically motivated?**

A: No. The political affiliation of the defendant in this case is irrelevant. If a prosecutor is presented with evidence that a crime has been committed, it is the prosecutor's legal duty to bring charges against the perpetrator.

### **Q: What is the evidence?**

A: The evidence is laid out in Bugliosi's book. The most frequently cited example is Bush's lies to the American people on television on October 7, 2002, when he claimed, shortly before seeking Congressional support for his Iraq war, that Saddam Hussein was a "great danger to our nation."

Here is a transcript of Bugliosi's testimony before the House Judiciary Committee in July, 2008, which is viewable on YouTube.

*[Bush] was telling millions of unsuspecting Americans the exact opposite of what his own CIA had told [him] just six days earlier, in a classified report on October 1st, that Saddam Hussein was not an imminent threat.*

*But it gets worse. On October 4th, the Bush Administration put out an unclassified summary version of the classified report that they could give to Congress, which they called The White Paper. In this*

*summary, the conclusion of U.S. intelligence - that Saddam Hussein was not an imminent threat-- was **COMPETELY DELETED**. Every single one of these all important words was taken out.*

*So Congress and the American people never saw any of this...What could possibly be worse and more criminal than the Bush Administration deliberately keeping this all important conclusion from Congress and the American people?*

**Q: How can Bush be treated as a criminal if what he did in Iraq had the consent of Congress?**

A: Fraud vitiates consent. Bush led Congress into the war under false pretenses, as described above, thereby nullifying its consent.

**Q: What are some of the emotional arguments for prosecuting Bush for murder?**

1. No one is above the law.
2. We still live in a democracy, built around the rule of law. Surely the American president is not on a par with dictators, like Hitler, Stalin, and Mussolini.
3. Over 4,000 soldiers, and well over 100,000 Iraqi civilians are lying in their cold graves because of this misbegotten war. Many soldiers died because of improper equipment. It is outrageous that they were misled into thinking they were dying to protect the U.S from Saddam Hussein, when he was not an imminent threat and had no involvement in 9/11.
4. The whole world is watching to see if the citizens of the United States hold Bush accountable for his crimes. Bringing a prosecution against him will improve our standing and reputation in the world.

**Q: Why is prosecuting Bush for murder even more critical - and strategically, more achievable -- than prosecuting him for war crimes?**

A: Granted, torture is absolutely despicable, but as The New York Times pointed out in a recent editorial, the number of Iraqi torture victims is in the neighborhood of two dozen. Even if that number were conservative, and the actual number could be as much as 100, the torture of 100 Iraqis pales in comparison to the suffering and death of over 4,000 American soldiers as well as the horrible violent deaths of over 100,000 innocent Iraqi men, women, children and babies. Strategically, Bush can be prosecuted for murder in any of the 50 states, whereas "war crimes" prosecutions, if done in the U.S., would most likely occur in Washington D.C. There, the "powers that be" can exert pressure on the Attorney General and members of Congress not to prosecute, even if Congress and the Presidency are controlled by Democrats.

**Q: What would be the steps to prosecute Bush in a state?**

A: The DA or Attorney General would assign a top prosecutor in his or her office, or hire a special prosecutor from outside his office, preferably Vincent Bugliosi (who knows the issues and has impeccable credentials -- see next question) to commence a criminal investigation to determine if George Bush took this nation to war under false pretenses. If the investigation confirms that Bush did do this, the prosecutor would then present this evidence to a Grand Jury and seek an indictment for murder and conspiracy to commit murder against Bush and co-conspirators such as Dick Cheney and Condoleeza Rice. If the Grand Jury returned an indictment, Bush's lawyers will likely make a motion to quash the indictment. They would make some legal arguments to prevent the trial from going forward. The U. S. Supreme Court might get involved, and could conceivably come up with some argument to prevent the case from going forward. But it may not, and under those circumstances, Bush would be made to stand trial in that state.

**Q: If Bush were at his ranch in Texas or in another state, could he be compelled to be present at his trial in another state?**

A: Yes, he would be compelled to do so, and if he refused, the state he was in would force him to comply with the out-of-state demand for his extradition under Article IV, Section 1 of the United States Constitution. This is the "full faith and credit clause, which is mandatory and not discretionary. It states: " Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state."

**Q: What are Bugliosi's credentials for being chosen Special Prosecutor?**

A: During his career in the LA District Attorney's Office, Bugliosi successfully prosecuted 105 out of 106 felony jury trials, including 21 murder convictions without a loss.

**Q: What have others said about him?**

Alan Dershowitz, professor at Harvard and noted appellate lawyer, says about Bugliosi: If you created a hall of fame of prosecutors, Vince would be in the entranceway. There is no prosecutor I'd fear more if I were guilty. He will get at the truth."

Lawrence Velvel, Dean, Massachusetts School of Law, says: Vince Bugliosi's book is a very serious book by a very serious author. It is rare that I've read a book that has as thorough a grasp of relevant facts as Bugliosi. For the first time, the need to use state murder statutes to punish presidential murder has now arisen, lest Bush and company get away with serious crimes."

## LEGAL ARGUMENTS

**Q: How can you prosecute someone like the president when he didn't personally kill anyone?**

A: It is not necessary for a defendant to have personally killed someone to be guilty of murder. For instance, Bugliosi prosecuted and convicted Charles Manson when he didn't participate in any of the killings.

**Q: What if the potential prosecutor says that s/he does not have the authority to prosecute George W. Bush for murder, because the crime had to be committed in the state and because the victim had to be in the state?**

A: There are several ways that you can rebut this argument, which is essentially an argument that goes to the question of jurisdiction. Here are the arguments, all documented in Bugliosi's book:

### I. Conspiracy to Commit Murder: The Underlying Crime that Confers Jurisdiction to your state

The underlying crime that confers jurisdiction to your state courts in this case is the crime of conspiracy to commit murder, which does not require, as one of its elements, the death of an individual, whether in Vermont or any other state.

All that has to be shown is:

a) an "agreement between two or more people" (i.e. George Bush and one or more other members of his administration) to conduct an unlawful war in Iraq, and

b) an "overt act" (no matter how inconsequential) to "further the object of the conspiracy." To establish jurisdiction, this overt act must have taken place in your state.

In your state, as elsewhere in the nation, there were at least two such overt acts, each of which is equally important.

1) Bush's lies outside your state were carried by radio and television straight into the homes and cars of the American people, including into your state. These lies (that Saddam Hussein was an imminent threat to the security of this country, and that Saddam was involved in 9/11), both demonstrably false, were made by Bush to gain the support of the American people for his war in Iraq.

2) The Bush Administration's recruitment of young women and men in Vermont to fight Bush's war in Iraq.

### II. The Crime of Murder

With respect to the separate crime of murder, the general rule is that a state only has jurisdiction over crimes physically committed in that state. However, although the killings in this case did not take place in your state, there is a well established exception to the rule. It is called the "effects doctrine." In instances where the crime occurs outside the territorial jurisdiction of the state, but the crime has a harmful effect on the people inside the state, then that state has jurisdiction.

Clearly the war in Iraq has had a harmful effect in your state, judging by the death of soldiers in your state. Moreover, your state has shared in the prodigious cost of the war to this nation ?? hundreds of billions of dollars ?? with no end in sight. Finally, the citizens of your state, as Americans, have endured

the loss of prestige in the eyes of the world community as a result of America's unprovoked invasion of a sovereign nation.

This "effects doctrine" of the "law of nations" can be applied to both federal and state courts, giving them extraterritorial jurisdiction. As stated on page 310 of Bugliosi's book, "The state can extend jurisdiction under the effects doctrine even where the conduct adversely affecting the state takes place within the territorial jurisdiction of another country. See *State v Jack*, 125 P.3d 311, 318?322 (2005), where the state was Alaska and the country Canada."

**Q: What if a potential prosecutor says that Bush did not have the requisite intent to kill American soldiers?**

A: Murder is defined as "the unlawful killing of a human being with malice aforethought." To successfully prosecute for murder, you simply have to prove two elements of the crime, the prohibited act, or actus rea, and the criminal intent, mens rea.

B. Intent to Kill: There are two types of malice aforethought: express and implied.

1) Express malice

While Bush never specifically intended to kill any American soldiers, he absolutely knew American soldiers would necessarily die in his war (unless he intended a war without casualties, which is of course absurd on its face). It is boilerplate law that if one willfully does an act, the natural tendency of which is to take another's life, then one must conclude that the destruction of such other person's life was intended.

2) Implied Malice

This does not require an intent to kill. It simply requires a showing that Bush intended to do an inherently dangerous act with wanton and reckless disregard for the consequences and an indifference to human life. This state of mind is certainly satisfied by Bush taking this nation into a deadly war and does not require further elaboration.

**Q: What defense does Bush have for the crime of murder?**

A: Bush's only defense would be what he has already locked himself into: that he took this nation to war in self defense, i.e. his so-called preemptive strike. But because evidence shows that Saddam Hussein was not a threat to our national security, and because Bush, knowing that, nonetheless sent troops to their deaths under false pretenses, Bush had no legitimate reason to invade Iraq, and therefore cannot persuasively argue that his defense was self defense.

This answer is, in fact, the whole crux of the case.