

Burden of Proof

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The legal principle called "burden of proof" can help 9/11 activists to be more effective in promoting 9/11 truth and in obtaining justice against all of the perpetrators of those attacks.

Introduction

The following questions are, or should be, vital to 9/11 all activists:

- Who bears the burden of showing that *its* version of 9/11 is accurate: the government or the 9/11 truth movement?
- Should we stick to issues like the stand-down of the military and multiple war games on 9/11, along with the interference with the FBI's ability to track the patsy terrorists and the facilitation of such patsies' actions by Pakistan's ISI, to which the CIA is the real puppeteer? Or should we also discuss the controlled demolition of the World Trade Center? Should we also discuss the anomalies of the Pentagon attack? Or should we discuss other theories about 9/11?
- How can the 9/11 truth movement win?

These questions are all related to a legal concept called the "burden of proof". While I certainly do not have all of the answers, I am confident that a basic understanding of this issue will help to provide some insight concerning all 3 of these questions.

Initial Versus Shifting Burdens

The burden of proof can be defined as ["The responsibility of proving a disputed charge or allegation"](#).

Here's how it works. In any lawsuit, the burden of proof can shift back and forth like a ball in a game of tennis. One party bears the "initial burden of proof": that is, that party must set forth enough evidence to "hit the ball" over the net onto the other guy's side of the court. Then the other side has to provide enough evidence to refute that argument and hit the ball back. This dynamic is called the "shifting burden of proof".

For example, in a murder case, the prosecution usually has the initial burden to prove that the defendant's act caused the victim's death, and that the defendant acted with malice in planning the murder ahead of time. If the prosecution fails to provide enough evidence on these issues to "hit the ball over the net", then its case would fail because the prosecutor failed to meet its initial burden of proof, even if the defendant hasn't mounted any defense whatsoever.

But if the prosecution does meet its initial burden of proof, than the burden "shifts" to the defendant to disprove the prosecution's claims or to prove some defense. In other words, the defense has to hit the ball back over the net.

In most civil lawsuits, the burden of proof is the "preponderance of the evidence" standard, which essentially means that the plaintiff has proved his allegations with greater than 50% certainty (even if only 51%).

Some civil claims however, like fraud, require "clear and convincing evidence", which is a higher burden of proof. And most criminal claims usually require proof of guilt "beyond a reasonable doubt", which is an even higher burden of proof.

Many 9/11 activists have incorrectly assumed that the government has the burden of proving that the official story is true. But it is the 9/11 truth community who would be filing lawsuits against the government, or convincing public prosecutors to do so. In either case, because the perpetrators of the 9/11 attacks would be the defendants in such lawsuits, it is the 9/11 truth community which would bear the initial burden of proof.

Only if we can meet that initial burden would the burden shift to the defendant-perpetrators to introduce sufficient evidence to "prove" the official 9/11 story.

Of course, if the government brought a lawsuit against Bin Laden, the government would bear the burden of proof against him. The government clearly has *not* met its burden of proof against Bin Laden. Indeed, the U.S. never produced the white paper which it long ago promised would prove that Bin Laden was behind 9/11. Moreover, many years after [the FBI first stated that it did not have sufficient evidence to prosecute Bin Laden for 9/11](#), the agency [still does not have any hard evidence linking Bin Laden to the crime](#). And many of the supposed Bin Laden tapes have almost certainly [been faked](#). So the government has failed to meet even its initial burden of proof against Bin Laden.

However, the burden of proof in a prosecution against U.S. government officials and other U.S. citizens is entirely different -- that would be an entirely different lawsuit or series of lawsuits, involving different players, than a lawsuit against Bin Laden and his cohorts. Not only would the defendants be different, but so would the claims. For a suit against U.S. government officials would include charges like treason.

The Court of Public Opinion

So far, we have been discussing the burden of proof in the legal context. That is, we are talking about the U.S. justice system.

But the same concept may be applied, by analogy, to other contexts. For example, the struggle for 9/11 truth is largely being fought for the hearts and minds of the American public; that is, in the "court of public opinion". In that setting, as opposed to the justice system, who bears the burden of proof?

Unlike in the justice system, there are not clearly defined rules about burden of proof. However, the burden of proof in the court of public opinion obviously largely depends on whether the majority of Americans *trust or distrust* their government at any given time. Between 2002 and 2005, 9/11 activists had a difficult time breaking into the mainstream, largely because people just could not believe that their government could do something as horrible as inflict mass casualties on its own people (that is, carry out a false flag terror attack).

But with the new appreciation by many Americans that the current administration *knowingly* lied its way into the Iraqi war, that the administration cares as much for the lives of the people of New Orleans as it does for some third world people on the opposite side of the globe, and that there are other indications that this administration cannot be trusted, many more people are willing -- in 2006 -- to consider the question of what really happened on September 11th. To some extent, the government has become so untrustworthy in the eyes of a portion of the American public that it has the burden of proving its claims.

However, there is virtually hard-wired into many millions of Americans a respect for authority and a severe resistance to question their leaders. Therefore, while 9/11 truth is starting to gain some mainstream media coverage, and momentum is on the side of truth, we still have the burden of proof in the eyes of a large chunk of the American public.

Congress

The burden of proof with congress appears to be that we have to convince the congresspeople that they can only keep their jobs if they pursue 9/11 truth and justice. For example, congress only voted to impeach Nixon when it became apparent that if congress didn't impeach Nixon, the American public would throw *all of the bums* out of office in the next congressional election cycle.

How Can We Meet the Burden of Proof?

Let's say there are two lawsuits being prosecuted involving claims of first degree murder (i.e. identical claims, and thus identical burdens of proof, at least assuming they are filed in the same jurisdiction). The first involves an allegation that the defendant, after being fired from his job, got drunk, and then murdered his ex-wife after he caught her in bed with his boss. The second involves an allegation that the murderer was an alien from another planet who was jealous that the victim was more handsome than the alien. The prosecutor in the first case will have a much easier job meeting his burden of proof than the prosecutor in the second case.

Even if the space alien *had* killed someone out of jealousy, a good prosecutor would probably not talk about that in court. The prosecutor would, instead, probably prove that the defendant was at the scene of the crime and possessed a murder weapon, and paint motive with broad brush-strokes. But a prosecutor who wanted to obtain a conviction against the murderer would probably left unsaid the whole "space alien" part of it, even if

true. Don't believe me? Ask any good attorney you know.

This is what lawyers call "choosing the theme of the case". A lawyer looks at a large number of different facts, and then chooses the "theme" -- i.e. the particular story -- which is most likely to convince the judge and jury. A lawyer spends a lot of thought before a trial in choosing his theme, as this is a key to winning or losing the case.

Likewise, different factual allegations about what happened on 9/11 will have more or less success.

5 Useful Questions

It might be helpful to ask 5 questions to help determine the amount of likely success in meeting the burden of proof concerning specific factual allegations concerning 9/11. Specifically, for the factual allegation to be true, we should ask:

- (1) How many different people would have had to be involved?
- (2) How many different agencies/companies would have had to be involved?
- (3) How diverse would the agencies/companies have to be?
- (4) How high would the technology have to be? Remember that most Americans only understand billiard-ball type 19th century Newtonian physics and old-fashioned technologies like phones. They hear a lot about new technologies, but don't understand them. So the real question is whether the technology seems "normal" enough that people could easily believe it was used on 9/11.
- (5) How obvious an attempt to cover up the true facts was made?

The meaning of these factors will become clear when we discuss specific examples.

Stand Down

Let's start with a stand down of the military. For that allegation to be true:

- (1) Cheney and maybe a few others would have had to be involved (see [this discussion](#));
- (2) Cheney and perhaps Norad were involved, so not many agencies.
- (3) Cheney and Norad are both government-related, so there is no tremendous diversity involved;
- (4) The technology involved is not that high-tech. Perhaps a system to inject false radar blips and perhaps (according to Michael Ruppert), the use of the Secret Service's parallel communications system. I would argue that these are within the realm of "normal"

technology from the public's perspective; and

(5) Norad lied to the 9/11 Commission and the American public, and Cheney would not testify under oath to that Commission, so a concerted effort to cover up the facts was indeed made.

Thus, I think we can meet our burden of proving a stand down of the military.

Controlled Demolition

Okay, let's do the same analysis for the controlled demolition of the Twin Towers and WTC 7:

(1) A handful of demolition and ordinance experts would have had to be involved, and someone would have had to let them in the towers;

(2) Such operatives may have come from a single government agency (and maybe [Marvin Bush opened the door?](#));

(3) Very little diversity of agencies was required (if they're all from the same shop, then there isn't any diversity);

(4) The technology to demolish the Twin Towers was probably more high-tech than dynamite. After all, the towers collapsed from the top down, and it would be tough to sneak in enough dynamite to bring down the towers. But Professor Jones has demonstrated the likelihood that substances related to thermite and perhaps RDX might have brought the towers down. While something like "superthermite" is a high-tech invention, in the eyes of most Americans, the use of explosives would still be thought of as "normal" technology, and thus believable (but nuclear weapons, although around since WWII, are still thought of as high-tech and exotic by most Americans, and thus less "normal" and believable. Scalar weapons, if they exist, would be thought of as even more exotic and much less "normal", and thus wholly unbelievable by the majority).

(5) A massive effort was made to cover up the true facts surrounding the collapse of the towers. In an unprecedented move, the government kept everyone (including the official government-hired researchers) away from ground zero, and carted the debris – under heavy security - off to China.

So, while I believe it will be more difficult to meet the burden of proof concerning controlled demolition than a stand down (as shown by the lower percentages in the recent Scripps/Ohio poll), given the outstanding work over the last couple of years by controlled demolition researchers, we can meet our burden of proof.

No Planes Theory

Next, let's take a look at the "no planes hit the World Trade Center" theory held by a

small group of 9/11 researchers:

- (1) The number of people who would have needed to be involved are unknown to me;
- (2) People working for the government and people working for the mainstream media would have had to be involved. Presumably, therefore, people from different government agencies and *many* different media companies would have had to be involved;
- (3) The diversity in entities/companies would have to be huge. Specifically, not only would governmental people have to have a hand in faking the video footage of planes crashing into the Twin Towers, but all of the mainstream television companies would have had to be in on it also, since they would have had to insert real-time images and allow those images to be broadcast world-wide;
- (4) Because the vast majority of the American public does not know that real-time technology exists to insert fake video images (the fake first-down line in pro football is a wholly-different animal -- unmoving, and much less sophisticated), most Americans would *not* believe that this technology exists; and
- (5) Personally, I know of no verifiable effort to cover up any facts concerning insertion of real-time fake video images on 9/11.

Let's focus on factors 3 and 4. For the 9/11 truth community to bear its burden of proof for the assertion that no planes crashed into the Twin Towers, the judge, public, or congress would have to be convinced that the U.S. government *and the entire mainstream media* was directly complicit in 9/11. This is exponentially more difficult than convincing someone that the government was involved.

And for the burden of proof to be met, the judge, public, or congress would have to be convinced that technology existed in 2001 to insert in real-time into the live video-camera feed *moving* images of airplanes. Again, this is so far beyond what most Americans think of as "normal" technology, that this task would be virtually impossible.

I have seen nothing to date that has convinced me that Boeing airplanes did not crash into the Twin Towers. But more importantly, even if that allegation *were* true, I believe that factors 3 and 4 would make it virtually impossible to prove the burden of proof on that allegation.

Does that mean that the "no planes" theory should not be researched or discussed? No. There is freedom of speech. And the truth should be pursued, if there is anything there. But presenting that issue to the judge, public or congress would -- in my opinion -- sabotage the chances of the 9/11 truth movement in meeting its burden of proof. (That doesn't mean I'll close my eyes to the issue -- I'll keep looking at the allegations. I might be wrong, and I might end up owing a big apology to the no-planers. But it is unlikely that I will change my assessment that the no-plane theory is a losing theme of the case for 9/11 truth.)

Directed Energy Weapons

Finally, let's take a look at theory that directed energy weapons destroyed World Trade Center buildings 1, 2 and 7:

(1) The number of people who would have needed to be involved is probably modest but not insignificant. Specifically, a handful of military and defense industry people involved in secret, high-tech weaponry could probably carry out the technical end, but armies of research scientists would have to have developed the weapons, and other personnel would need to place it and cover up their tracks;

(2) As discussed above, people working for the government and defense industry would have had to be involved;

(3) The diversity in entities/companies would be moderate. Again, certain defense agencies and defense companies;

(4) The vast majority of the American public does not believe that directed energy weapons exist. Personally, I am open to the possibility that they do *exist*. For example, former secretary of defense Cohen has said people can "[alter the climate, set off earthquakes, volcanoes remotely through the use of electromagnetic waves](#)". And the military will deploy [devices which transmit electromagnetic beams which cause pain](#) starting next year. However, the question of whether or not they may have existed in 2001 and whether or not they were *actually used to bring down the towers* are completely different.

More importantly, directed energy weapons would be based on modern physics principles involving quantum physics and scalar effect, they would be mere science fiction for 99.99% of people. Therefore, directed energy theories stumble badly on this "believability" factor;

(5) Personally, I know of no verifiable effort to cover up any facts concerning directed energy weapons. While many proponents of this theory [attack 9/11 activists who do not publicly promote the theory](#) and claim they are disinformation agents, everyone I know who criticizes this theory does it for one of two reasons:

- They think the theory is [contradicted by the evidence](#)

Or

- They think that the theory will not be believed (it fails the fourth factor, above), and so will only discredit the efforts for 9/11 truth and justice. In other words, I know of some 9/11 activists who believe that directed energy weapons were used, but that it would hurt the effort to discuss them, as it will turn most people against those questioning 9/11.

Personally, I have seen nothing to date that has convinced me that directed energy weapons were used at the World Trade Center. Moreover, I believe that such weapons are so far beyond what most Americans think of as “normal” technology, that convincing them of their use on 9/11 would be virtually impossible. Perhaps in 20 years it would be possible, as directed energy weapons become more commonly used in warfare.

Bottom line: I think the burden of proving directed energy weapons is simply too high at this time, even if someone does come up with convincing evidence of their use in New York. Once the ideas of directed energy or scalar devices become known to the general public, than the burden of proof might not be so insurmountable.

Does that mean that theories regarding use of directed energy weapons at the WTC should not be researched or discussed? No. There is freedom of speech. And the truth should be pursued, if there is anything there. And I believe that publicizing the *existence* or *development* of such devices (if they exist, and I assume -- but don't know -- that they do) is very important in general. Because horrible weapons of mass destruction, designed to cause torture and destruction greater than ever before known, may be something the public should be warned about.

But presenting the claim that directed energy weapons brought down the Twin Towers to the judge, public or congress would -- in my opinion -- sabotage the chances of the 9/11 truth movement in meeting its burden of proof. (That doesn't mean I'll close my eyes to the issue -- I'll keep looking at the allegations. I might be wrong, and I might end up owing a big apology to the DEW proponents. But it is unlikely that I will change my assessment in the near future that the DEW theory is a losing theme of the case for 9/11 truth.)

I want to win the fight for 9/11 truth and justice. I believe that reflection on the concept of the burden of proof will help in this effort.

Postscript . . . A reader points out:

"In science or logic (not law), the burden of proof lies with the party that advances an argument or theory about whatever facts are available. If their theory cannot explain all of the facts, it should be rejected or 'accepted' only provisionally until a better theory comes along.

The official story is such a theory. Since this theory contains scores of anomalies, avoids counter-evidence, and does not come near to explaining all of the facts, it does not meet its burden of proof, and we are therefore bound by the rules of science and logic to look for other theories that can explain the facts better."

I agree that the 9/11 truth movement has already refuted the official version of 9/11 beyond any reasonable doubt. Again, this essay focuses on the burden of proving unlawful actions by elements within the U.S. government, other U.S. citizens, and/or their co-conspirators.