

Senate slaughter shame and Sanders

Citizens: Stop the killing
Congress: No

By Russell Mokhiber

By a two-to-one margin, Americans are more inclined to support a member of Congress who supports a cease-fire in Gaza and they are less willing to support a member of Congress who opposes a cease-fire.

That's the key finding from an early January 2024 poll by John Zogby Strategies.

A December, 2023 Data for Progress poll came in with similar results – sixty-one percent of respondents supported a permanent ceasefire and de-escalation of the violence in Gaza.

Josh Paul, the State Department official who resigned last year to protest the Biden administration's unconditional support for Israel's war in Gaza, said that congressional

staffers are telling him that constituent calls to Congress are running ten to one in favor of a ceasefire.

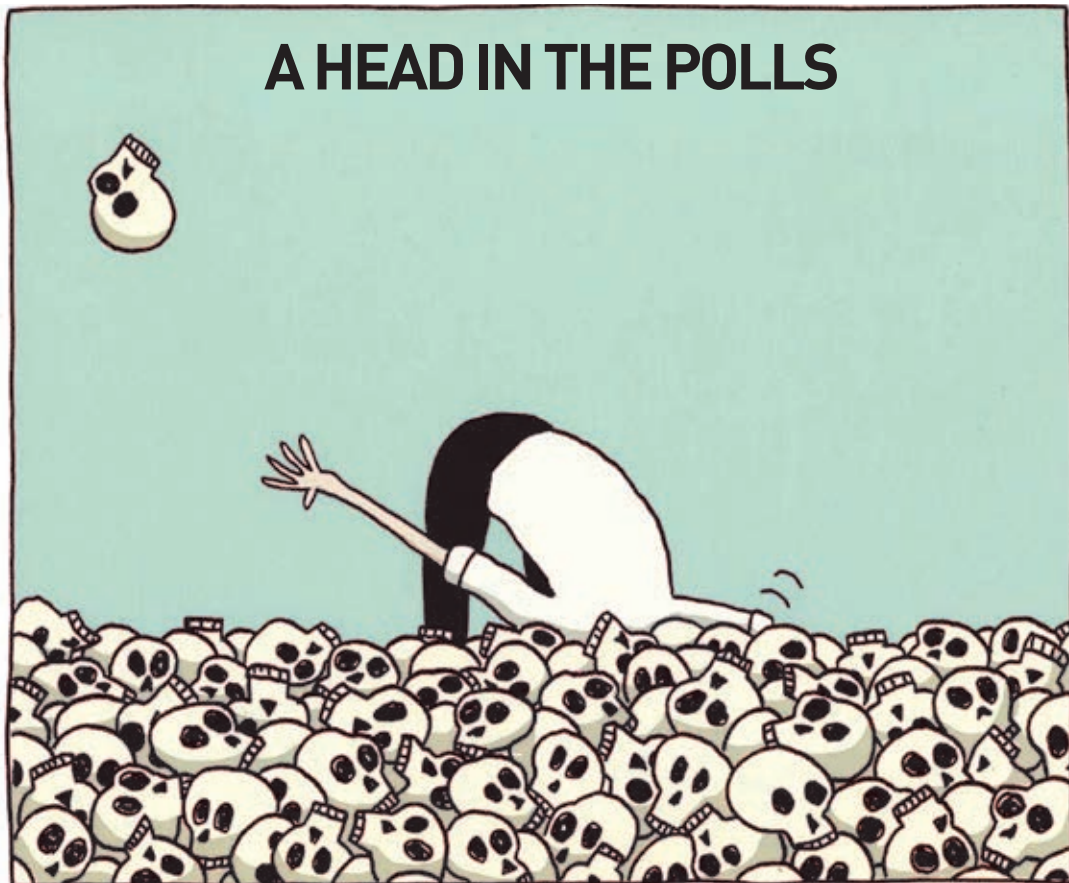
And yet, as of this writing, only sixty members of the House (14 percent) and four Senators (four percent of Senators) have called for a ceasefire in Gaza.

In round numbers, that's 65 percent of the public that wants a ceasefire compared to only 15 percent of members of Congress calling for a ceasefire.

The Biden administration in December 2023 vetoed a United Nations Security Council vote for a ceasefire in the war in Gaza.

In October, 2023, the Biden administration vetoed a UN resolution that would have condemned all violence in the Gaza war.

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JOE BIDEN LOOKING THROUGH HIS SUPPORT OF ISRAELI AGGRESSION FOR A REASON WHY ANYBODY WITH A SOUL MIGHT BE ABLE TO FORGIVE HIS COMPLICITY WITH GENOCIDE AND VOTE FOR HIM IN 2024

Corporate crime gets a hearing

By Citizen Staff

Corporate crime finally got a hearing in Congress. The Senate Judiciary Committee held the hearing, which it titled – Cleaning Up the C-Suite: Ensuring Accountability for Corporate Criminals.

In recent months, public interest groups had been lobby-

ing Democrats in Congress to do a deep dive into the problem of corporate crime – which the FBI estimates costs the nation \$300 billion a year compared to \$16 billion for street crime.

And while the less than two-and-a-half hour hearing actually was held on December 12, 2023, it was not exactly what you would call a deep dive by the Democrats.

It was more pro forma, let's get this baby over and done with and move on kind of a hearing.

There was a time when Congress held deep dives into issues of public importance – like, for example, organized interstate criminality.

Remember the Kefauver hearings of the early 1950s?

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Collectively Congress is a weapon of mass destruction

By Ralph Nader

Collectively, Congress is a weapon of mass destruction. With multiple warheads.

Collectively, because there are several dozen lawmakers who would not tolerate its collective acts of action and inaction that have resulted in such

preventable damage to humankind and the world.

As an operating legislative institution, given enormous constitutional authority, Congress has the originating power for good or bad, on a scale unmatched by any counterpart in other countries.

The paradox is that the worse Congress becomes, the

more our culture lowers its expectations. This is reflected in the citizenry, the media and the public dialogue around elections. Low public expectations feeds the concentration of power in the few – who expect much from Congress for themselves – over the many – who withdraw.

High public expectations

would put into play forces of motion to deconcentrate this power and break up the corporate state.

Congressional destruction Target Number One is democracy itself, starting with corrupting campaign money in elections benefitting politicians who get along by going

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Senator Tillis: inner city kids are corporate criminals

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Congress set up a special committee – and budgeted \$150,000 – to look into organized crime.

The committee was chaired by Senator Estes Kefauver (D-Tennessee). During the course of the 15-month investigation, the committee met in 14 major U.S. cities and interviewed hundreds of witnesses in open and executive sessions. An estimated 30 million Americans tuned in to watch the live proceedings in March 1951. (See Kefauver Hearings, sidebar).

Corporate crime deserves the same treatment and a deep dive into corporate crime would be equally popular with the American people.

So why wouldn't the Democrats want to do it?

The answer is as obvious as the campaign finance reports in the Open Secrets database.

You wouldn't want that much of a focus on a problem where the Democrats in Congress are deeply complicit in what you might call a corporate crime protection racket – taking millions in campaign funding from the corporate criminals and then turning around and protecting a Biden Justice Department that has brought fewer major corporate crime cases than any of their predecessors – yes, even fewer

than Donald Trump's Justice Department. (See "Corporate Crime Enforcement Hits New Low Under Biden," *Capitol Hill Citizen*, July/August 2023, page one)

None of that, of course, was mentioned during the hearing, not by the Democrats, of course, and not even by the Republicans, who are usually looking to embarrass their rivals. But alas, the corporate crime protection racket is bipartisan.

The Republicans on the committee, when they spoke, for the most part ignored the topic of the hearing – corporate crime – and turned their focus to inner city street crime.

One Republican Senator, Thom Tillis (R-North Carolina), in a neat little rhetorical twist, did in fact mention corporate crime in his remarks. But only after redefining the



In an agreement revealed Friday, Dec. 29, 2023, consulting firm McKinsey and Co. agreed to pay \$78 million to settle claims from insurers and health care funds that its marketing work with Purdue Pharma, the maker of OxyContin, helped fuel an opioid addiction crisis. (AP Photo/Toby Talbot, File)

term. If we understand Senator Tillis properly, it's the black inner city kids who are the corporate criminals.

Tillis was questioning Nicole Argentieri, the acting chief of the Justice Department's Criminal Division.

"Do you know what GTA IRL stands for?" Tillis asked Argentieri, referring to the popular video game. "Grand Theft Auto In Real Life."

"We have minors in Washington, D.C. thinking they are playing a video game holding people at gunpoint and stealing

ten cars," Tillis said. "We have organized crime rings. I think these 15-year-olds need to be held accountable and hopefully we can save them from a life in prison."

Tillis said he considered these children "to be corporate criminals – people organizing, whether it is organized retail theft, a real problem that will create shopping deserts in troubled communities."

Similarly, Senator Marsha Blackburn (R-Tennessee) ignored the issue of actual corporate crime altogether and only asked about inner city street crime – in Washington, D.C. and in Memphis, Tennessee.

But the promise of a Kefauver-like nationwide series of corporate crime hearings was momentarily on display in the Senate Judiciary Committee hearing room in the person of Ryan Hampton, a recovering 43-year old opioid addict.

Hampton was the only victim of corporate crime who testified at the hearing and portrayed a two-tiered system of justice.

"The story of my opioid addiction is not unique," Hampton told the Committee. "Millions upon millions of Americans have experienced the very same pain and misery I have at the hands of corporate criminals. I just happen to be one of the lucky few who survived."

"My painful, near-death experience at the hands of pharmaceutical companies illustrates how dire this problem is. From the 1990s to the 2010s, a tidal wave of pharmaceutical opioids crashed down on this country, drowning thousands of communities in an unprecedented volume of pills that caused dependence, addiction, and death."

"Like so many, I had to learn

this the hard way. I was prescribed an absurd dose for an absurd amount of time by licensed doctors who made scant mention of serious side-effects. After I became addicted, doctors continued re-filling my prescriptions – until one day they didn't."

"At my most sick and desperate, I was cut-off and left to fend for myself, without any referral for treatment. Instead of being seen as a patient who needed help, I was now treated as a liability, and faced with prejudice and shame."

"What truly stuns me is that while all of this was going on, federal prosecutors at the Department of Justice had already opened multiple investigations into several pharmaceutical companies, from Purdue Pharma, which manufactured the medications, to McKesson, which distributed the medications, and pharmacies like Wal-Mart, which dispensed the medications—medications that were approved by the FDA under false and deceptive pretenses."

"Though numerous pharmaceutical companies have pled guilty to major federal crimes, and settled multi-billion-dollar lawsuits, justice has still not materialized for victims," Hampton told the Committee.

"The simple fact is this – the more opioids flooded communities, the richer they became. Without enforcement and deterrence, these executives had zero incentive to change their business model."

"People at corporations made the decision to break the law, and many remain unapologetic and openly defiant. The Sackler family (the owners of Purdue Pharma), for example, could not give a clear answer on whether they feel responsibility or even whether they're sorry for their actions. It seems that the wealthy get off scot-

"People at corporations made the decision to break the law, and many remain unapologetic and openly defiant. The Sackler family could not give a clear answer on whether they feel responsibility or even whether they're sorry for their actions. It seems that the wealthy get off scot-free or with a slap on the wrist, offered sweetheart deals and offered non-prosecution agreements." – Ryan Hampton



Protester demonstrates outside Boeing's annual shareholders meeting at the Field Museum in Chicago on Monday, April 29, 2019. (AP Photo/Jim Young)



Boeing CEO Dave Calhoun leaves after a meeting with Senator Tammy Duckworth (D-IL) in the Hart Senate Office Building, on Capitol Hill in Washington, D.C., on Jan 25, 2024, as Boeing deals with the fallout of recent safety mishaps, including a door blowing out mid-flight. (Photo by Aaron Schwartz/NurPhoto via AP)

free or with a slap on the wrist, offered sweetheart deals and offered non-prosecution agreements.”

“The most they expect is a measly fine, in what amounts to rounding errors in their enormous profits, chalked up as the cost of doing business. These powerful companies knowingly defrauded the government and misinformed the public. Senators, these are felonies. Where I’m from, if you commit a felony, you get punished for it.”

“But if you run a big pharma corporation, it appears that wealth and power grant your entry into a parallel system of justice. This parallel system for the wealthy and powerful generates cynicism and erodes faith in our institutions,” Hampton told the Senators.

“A society that does not own and face up to its crimes is doomed to repeat them. That is why families like the Sacklers must be fully investigated, indicted, and prosecuted, with transparency by the Department of Justice, to the full extent of federal law – for the lives they cut short, the communities they tore apart, and the families they destroyed.”

Judiciary Committee chair Dick Durbin (D-Illinois) asked the chief of the Criminal Division, Nicole Argentieri – “Why was no criminal action brought against the Sacklers?”

“Pursuant to long-standing government policy I cannot speak to how we make charging decisions, but I can say we follow the facts and the law and we apply the principles of federal prosecution,” Argentieri said.

“I’m glad to hear that, but when the Sackler family ends up with billions of dollars and walks away from the devastation it created, it’s unacceptable,” Durbin said. “The mes-

sage is basically if you have enough money you can game the system and walk away with plenty of billions left over. Don’t you see that?”

“We share your concern about the opioid epidemic. The criminal division was not involved in the 2020 agreement,” she said.

Why didn’t they bring their own accusation against the Sacklers? Durbin asked.

“We follow the facts and the law, but as to why no one else was prosecuted, I cannot go further,” Argentieri said.

“That is the heart of this hearing,” Durbin said. “The problem that you see here is that these people lawyered up and put themselves in a political position where the family

basically escaped liability.”

What neither Argentieri nor Durbin mentioned was a more than 100-page prosecution memo that federal prosecutors in Virginia drew up in 2006 laying out the case against Purdue Pharma.

The memo was featured in a *New York Times* mini documentary titled – *A Secret Memo that Could Have Slowed an Epidemic*.

Had the prosecutors been allowed to move on their memo and bring felony charges against key Purdue Pharma executives and proceeded in a full out prosecution of the company and its high ranking executives and owners, the epidemic could have been limited, saving tens of thousands of American lives.

But high powered corporate criminal defense attorneys went over the heads of line prosecutors to high ranking officials at Main Justice and limited the range and scope of the prosecution.

Those line prosecutors in Virginia were doing old school prosecutorial work. They wanted to bring the criminal prosecution – and either force guilty pleas and jail sentences – or not bring the case.

But that’s not the way Main Justice handles major corporate crime prosecutions these days. It’s all – settlement, settlement, settlement, deferred prosecution, non prosecution, declination with disgorgement. No plea. No jail time for executives.

(Again, we’re talking about major U.S. corporate crime cases. Often, when the Justice Department boasts about jail time for corporate executives or guilty pleas by corporations, they are talking about smaller companies or foreign multinationals. Those are the usual exceptions to the rule of corporate impunity.)

During the hearing, there was much discussion about reforming the corporate crime settlement practice.

Duke Law Professor Brandon Garrett gave the Senators four reform ideas – more comprehensive public data collection on corporate crime, amend the Speedy Trial Act to allow for more careful judicial scrutiny of corporate criminal settlements, more enforcement resources to tackle corporate crime and violence, and legislation to emphasize the need for

effective compliance. But there is another, albeit minority, view that wasn’t aired during the hearing – severely limit the use of these major corporate crime settlements.

Deferred prosecution agreements, the primary tool used to dispose of major corporate crime cases, were intended only to rid the courts of minor individual cases – they were never intended for major corporate crime cases.

Then, in the early 1990s, came Mary Jo White, the former U.S. Attorney in Manhattan, now a partner at the corporate criminal defense firm of Debevoise & Plimpton.

In 2005, *Corporate Crime Reporter* interviewed White and in that interview, White claimed to be the mother of the corporate criminal deferred prosecution agreement.

White said that in 1994, she introduced deferred prosecution agreements to major corporate crime cases in a case involving Prudential Securities.

Now, deferred and non prosecution agreements are the default method of settling major corporate crime cases.

Perhaps we should scale way back on their use in major corporate crime cases.

At a conference held in 2013 by *Corporate Crime Reporter* at the National Press Club, then University of Michigan Law Professor David Uhlmann, now head of the Environmental Protection Agency’s enforcement unit, argued that the Justice Department should stop using deferred and non prosecution agreements to settle corporate crime cases.

“If the law and the facts justi-

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The Kefauver Committee

In 1949 the American Municipal Association, representing more than 10,000 cities nationwide, petitioned the federal government to combat the growing influence of organized crime. First-term senator Estes Kefauver of Tennessee drafted a resolution to create a special committee to investigate the issue. The Commerce and Judiciary Committees battled to control the investigation, and following a protracted debate, Vice President Alben Barkley cast the tie-breaking vote to establish a special committee.

Senate Resolution 202 provided the Special Committee on Organized Crime in Interstate Commerce, commonly known as the Kefauver Committee, with \$150,000 to study interstate crime. When the five-member committee was set to expire at the end of February 1951, the public inundated Congress with letters demanding that the inquiry continue.

The Senate responded, extending support for the investigation to September 1, 1951. During the course of the 15-month investigation, the committee met in 14 major U.S. cities and inter-

viewed hundreds of witnesses in open and executive sessions.

Though not the first congressional committee to televise its proceedings, the Kefauver Committee hearings became the most widely viewed congressional investigation to date.

An estimated 30 million Americans tuned in to watch the live proceedings in March 1951. The television broadcasts educated a broad audience about the complicated issues of interstate crime.

“Television and radio make these events more vivid and alive to the general public than newspapers,” explained one New York teacher. “I do not think any of you can possibly realize how much good it has done to have these hearings televised,” wrote Mrs. Carl Johnson. “It has made millions of us aware of conditions that we would never have fully realized even if we had read the newspaper accounts.”

The broadcasts made the Kefauver Committee a household name – in March 1951, 72 percent of Americans were familiar with the Kefauver Committee’s work. Schools dismissed students to watch the hearings. Blood

banks ran low on donations, prompting one Brooklyn Center to install a television and tune in to the hearings, and donations shot up 100 percent.

“Never before had the attention of the nation been riveted so completely on a single matter,” explained *Life* magazine. “The Senate investigation into interstate crime,” it concluded, “was almost the sole subject of national conversation.”

In December 1951 Americans selected Chairman Kefauver as one of 10 most admired men, joining a list of notables including Pope Pius XII, Albert Einstein, and Douglas MacArthur.

Kefauver sought the Democratic Party presidential nomination in 1952 and 1956. Though he was unsuccessful in his bid for the presidency, in 1956 Democrats selected Kefauver as their vice presidential candidate. The Adlai Stevenson-Kefauver ticket lost the election to incumbents Dwight Eisenhower and Richard Nixon . . .

– **Special Committee on Organized Crime in Interstate Commerce (The Kefauver Committee), (Courtesy U.S. Senate)** **CHC**

No mention of Boeing at corporate crime hearing

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fy prosecution, charges should be brought – they should not be sacrificed to deferred prosecution or non-prosecution agreements,” Uhlmann said. “If the conduct does not rise to the level that warrants criminal prosecution, the matter should be declined,” he said. “Deferred and non-prosecution agreements, if they occur at all, should be limited to relatively minor cases where civil or administrative enforcement is not available.”

The December Senate Judiciary Committee hearing was focused on the Purdue Pharma corporate crime and the failure of justice in that case.

But it is remarkable that given the prominence of the Boeing corporate crime that killed 347 people in two major crashes, Boeing was not mentioned once during the hearing – especially since the Boeing deferred prosecution agreement was perhaps, as Columbia Law Professor John Coffee put it, one of the worst deferred prosecution agreements ever and is emblematic of everything that is wrong with these types of settlements.

The three-year Boeing deferred prosecution agreement expired on January 7, 2024. Now the Justice Department has sixty days to ask a federal judge in Texas to dismiss the criminal charges. And if it does move to dismiss, the victims’ families and aviation activists will be there in the courtroom arguing that Boeing violated the terms of the agreement and that the criminal case should be reopened.

Democratic party partisans, like David Sirota, argue that since the Boeing deferred prosecution agreement was cut in the last days of Donald Trump’s administration in January 2021, President Biden could score political points by rescinding it and reopening the case against Boeing.

But that’s a long shot, given the track record of how the Biden’s Justice Department has treated the Boeing victims to this point.

After the victims sued the Department to enforce their rights under the Crime Victims Rights Act (CVRA), the Justice Department reluctantly met

more than 100 victims’ families members in Washington D.C. in November 2022.

Naoise Connolly Ryan, who lives in Ireland with her two young children, lost her husband Mick Ryan in the Ethiopian crash in 2019. Naoise Ryan called the meeting “a complete disappointment.”

“The government stood by Boeing and their secretly-crafted deal against our families,” Ryan told *Corporate Crime Reporter* after the meeting. “It is horrific that the government continues to give preferential treatment to Boeing – supporting a secret, sweetheart agreement that provided immunity to the company responsible for our loved ones’ deaths.”

“While the Justice Department is gaslighting our families and inflicting new wounds, we remain undeterred in our fight for justice and look forward to pursuing our rights in court,” Ryan said.

“Will you criminally prosecute Boeing, and their executives Calhoun and Muilenburg in open court before a jury until verdict?” one family member asked.

Justice Department officials were non-committal. Prosecutors told the families that they would accept any evidence they might have of criminal wrongdoing. But the families and their lawyers responded that in fact prosecutors have not accepted evidence offered in the past. The families pressed prosecutors to seek crucial evidence currently under seal in the civil cases. Prosecutors refused to do so.

On January 5, 2024, two days before the Boeing deferred prosecution agreement expired, an Alaska Airlines Boeing 737 Max 9 door plug blew out in flight. The pilots remarkably landed the plane without loss of life.

Seattle Times’ Dominic Gates later reported that the door plug that blew out “was removed for repair then re-



The late Mick Ryan with his children Saorlaith & Macdara. (Family photo)

installed improperly by Boeing mechanics at the Boeing Renton, Washington assembly plant.”

“That leaves Boeing primarily at fault for the accident,” Gates reported.

On December 14, 2023, the Foundation for Aviation Safety wrote to the federal judge overseeing the Boeing criminal case – Judge Reed O’Connor – asking him not to dismiss the case, even if the Justice Department calls on the Judge to do so.

The group said that since signing the agreement, Boeing has deliberately provided “false, incomplete and misleading information” to the federal government. The group says they have provided detailed information about “gross negligence on the part of senior Boeing executives and a list of potential witnesses.”

The Department of Justice “has made no effort to respond except for one form letter telling us to get in touch with our legislator,” the group wrote to the Judge. “The Department has shown zero interest in investigating anything relating to these crimes.”

Boeing victims’ lawyer Paul Cassell told the *Capitol Hill Citizen* if the Department moves to dismiss the criminal charges “the families will strenuously oppose it.”

“Simply dismissing the charges for the deadliest corporate crime in U.S. history would not be in the public in-

terest,” Cassell said.

The Justice Department charged Boeing with defrauding the Federal Aviation Administration. But in fact, Boeing, its current CEO David Calhoun and its former CEO Dennis Muilenburg, should be criminally prosecuted for the killing of 346 people.

There is precedent in federal law for such a prosecution.

In 2013, for example, BP was forced to plead guilty to manslaughter in connection with the deaths of 11 workers who died in the 2010 explosion and fire on the Deepwater Horizon rig in the Gulf of Mexico.

“It’s a principle of American law that the crime of involuntary manslaughter occurs when death results from acts performed in a criminally negligent or reckless manner,” two Boeing victim trial lawyers Shanin Specter and Robert Clifford, wrote in an October 2022 article titled – It’s Time for a Criminal Investigation of Boeing’ CEOs.

“The public communications that Boeing made at Muilenburg’s and Calhoun’s insistence have now been recognized as false and misleading by both the relevant court and relevant regulator,” they wrote. “These were statements that the U.S. government and the general public trusted regarding the 737 MAX 8’s safety. Muilenburg and Calhoun were also pivotal in Boeing’s decision to allow the unsafe 737 MAX 8 to keep flying after the first crash in 2018. This led directly to the second, fatal crash in Ethiopia.”

“Such irresponsible conduct – if proven in criminal court – needs to be punished, both for the memories of the deceased and for the safety of the general public. It’s time for the crimi-

nal justice system to look at the behavior of both Muilenburg and Calhoun.”

The other developing scandal in the Boeing case surrounds those more than 140 civil cases that have been filed in federal court in Chicago.

More than 100 of them have been settled without trial. And it is unclear whether any of the remaining cases will go to trial and whether top Boeing executives, including current Boeing CEO David Calhoun, will be forced to give testimony under oath.

Famed trial lawyer William Lerach, for one, told *Capitol Hill Citizen* in January that he doubts Boeing will be forced to trial.

Why?

Boeing will pay to make sure it never happens.

“No one is ever going to get to depose the CEO of Boeing or show those horrible documents,” Lerach said. “Boeing won’t permit it.”

“You want to talk about something that’s wrong in litigation? It’s secrecy – secrecy of pre-trial documents. It’s outrageous. It’s terrible. And the plaintiffs’ lawyers are to blame for that,” Lerach said.

“When I was practicing, we would fight that. We fought it in Enron. And the judge ruled in our favor,” Lerach said. “There is no reason for this kind of evidence to be kept secret. That undermines the real worth of litigation. The real worth of litigation is exposure. The secrecy undermines deterrence.”

When asked why the Biden administration has not cracked down on rampant corporate crime, Lerach said – “because politically they are dependent on corporate money, Wall Street money, the accounting firm money, corporate community money – they have become soft on prosecuting big corporate cases,” Lerach said.

“On the other hand, these cases are hard to prosecute. These corporate executives are smart. They are surrounded by lawyers and experts. They get opinions. They insulate themselves. To us, we might say – the conduct there is so bad they ought to be prosecuted. But when you get into it, proving criminal intent can be difficult.”

“So what are the results? A system whereby deferred prosecution agreements and big fines paid with corporate shareholder money, not the individual wrongdoers money, create headlines, create statistics for the prosecutors and a perfectly acceptable world for the corporate criminals where they can just go on with their conduct paying for it with the shareholders’ money. Now that’s not a good system.”

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“It is horrific that the government continues to give preferential treatment to Boeing – supporting a secret, sweetheart agreement that provided immunity to the company responsible for our loved ones’ deaths.” – Naoise Connolly