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Charges against fire boss heap travesty atop tragedy - Tuesday, Jan. 2, 2007

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SUMMARY: Scapegoating firefighting crew boss is wrong and can only add to firefighting danger.

Firefighter bosses may start feeling the heat like never before. Federal prosecutors in Spokane charged a Forest Service crew boss with manslaughter Dec. 23 in connection with the deaths of four firefighters in a 2001 wildfire in northcentral Washington. This first-of-its-kind criminal case is a gross miscarriage of justice on its face. But even if the charges don't stand up in court, prosecutors have sent an unmistakable - and unfortunate - message to men and women up and down the chain of command: Avoid all risks and cover your rear.

The ultimate effect could be less-effective firefighting leading to bigger, more dangerous fires and, perversely, even greater risk of fire fatalities in the future.

Prosecutors say 46-year-old Ellreese Daniels committed involuntary manslaughter by failing to prevent his crew from being overrun by the Thirtymile fire near Winthrop, Wash., July 10, 2001. The criminal complaint says he and others committed a variety of mistakes, among them: underestimating the fire's potential, failing to anticipate extreme fire behavior, inadequately communicating among themselves and failing to ensure the crew's proper deployment of emergency fire shelters in the face of advancing flames. Prosecutors also say Daniels lied about some of his actions afterward. Ten firefighters and two campers trapped with the crew survived; four crew members died in their emergency shelters of asphyxia from inhaling superheated gases from the fire raging around them.

The fire started as a picnicker's campfire. Yet it's not the careless picnicker facing manslaughter charges but the fire crew boss who led efforts to extinguish the blaze.

The mistakes contributing to the Thirtymile disaster have been well documented. The Forest Service and Occupational Safety and Health Administration investigated and thoroughly catalogued the contributing factors leading up to the deaths. They range from inadequate safety consideration to flawed firefighting tactics to fatigue to lapses in leadership. Forest Service investigators faulted the crew boss for some of the mistakes, but assigned others more broadly. Charging a middle-management firefighter with manslaughter for the death of crewmen in a fire is akin to filing manslaughter charges against an Army captain for the deaths of soldiers caught in an enemy ambush.

It took a large team of government investigators many weeks to analyze what went wrong. Federal prosecutors spent five years piecing together their criminal complaint against Daniels. The crew boss, others in the chain of command, and the firefighters were forced to make decisions on July 10, 2001, at a somewhat less-leisurely pace. That doesn't excuse the fatal errors, but it's worth pointing out that what people in the midst of crisis should have done always is a lot easier to see in hindsight.

Charging the crew boss with manslaughter is inappropriate. While he was responsible for the safety of his crew, many others had a hand in assigning and training personnel, committing various resources, forecasting fire behavior and communicating dangers - all factors in the disaster. It's patently unfair to hold one person responsible for an organization's lapses. It's also wrong-headed to criminalize incompetence. People who make honest mistakes while doing their jobs must inevitably face career consequences (as Daniels and others involved with the Thirtymile disaster have), but they shouldn't face

jail or financial ruin.

Meanwhile, how should we expect other firefighting supervisors to react? Wildland firefighting officials in general are safety zealots, but the work they do and direct is inherently dangerous. Any mistake is potentially deadly. Already guided by professionalism to do their best, they now risk jail if they fail to achieve perfection. That is a recipe for inaction. Who wants to be the supervisor who orders a crew out of the safety of camp and onto a potentially dangerous fire line? Better to play it safe!

Meanwhile, expect the new risk of criminal charges to stifle the open discussion and critical examination of firefighting strategy and tactics. Lessons learned from past firefighting fatalities have shaped and improved firefighting techniques and technology, undoubtedly saving many lives as a result. Criminalizing mistakes will make it far harder, sometimes impossible to get firefighters and their supervisors to be open and honest about mistakes from which others might learn.

Any judge with a sense of justice would summarily dismiss the charges against Daniels. But how is anyone going to purge the sense of legal jeopardy sure to linger, regardless, in the minds of other firefighting supervisors?

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