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By

S. L. Mintz /

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How the Senate Financial-Crisis Report Puts the "Less" in "Toothless"

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Today's NYT tells us that the [Senate has released its 635-page report](#) on the financial crisis: "[Anatomy of a Financial Collapse](#)." The first page of the *Times* business section features a large photo of angry Sen. **Carl Levin** pointing his finger at a photo of **Kerry Killinger**, ex-CEO of **Washington Mutual**, a thrift at the center of subprime mortgage lending.

Compiled by Senate staffers with no separate budget, according to an aide to Levin, the Senate report singles out actors whose alleged complicity deserves denunciation. But because so many of the report's targets were bit players or otherwise marginal to the main narrative of the crisis, it won't put senators' campaign contributions at risk.

Who gets blamed... and who doesn't

Blaming the ineffectual **Office of Thrift Supervision** -- now absorbed by the Treasury Department, a handful of benighted mortgage lenders and a large German commercial bank spotlights serious problems, to be sure. Credit rating agencies that pumped out triple A ratings on shaky derivatives offer easy targets without enormous clout.

Powerful **Goldman Sachs** (GS) does take some hits for slipping fast ones past institutional investors too sophisticated for their own good, but legions of critics have already cleared that path. A campaign contribution tied to Goldman is poison anyway.

Go ahead, beat up on the Germans

Reportedly, over 120 Senate documents indict **Deutsche Bank**, a big but peripheral player in the U.S. Where are case histories on **Citibank** (C), **Bank of America** and Merrill Lynch (BAC), **Wells Fargo** (WFC), **AIG**, **Morgan Stanley** (MS) and other financial institutions that still dole out whopping bonuses to employees?

By offering subprime mortgages to "anyone who could fog a mirror," as a *New York Times* economics editor and hapless subprime borrower [Edmund Andrews](#) described the climate, and gorging on securities no one really understood, these financial institutions nearly drove the financial system over a ledge. But there the Senate's case histories tread lightly.

Accusing marginal bad guys might provide grist for campaign clips and even TV scripts for *Law and Order*. Unearthing causes of systemic risk is a much messier job. Hence the absence of anyone above the rank of shady mortgage lender who has yet paid for crimes associated with the biggest financial collapse since the Great Depression.

Compare and contrast with S&L crooks

That's a stark contrast with 5,490 criminal investigations, 1,100 prosecutions and [839 convictions stemming from the savings & loan crisis](#) two decades ago, as the *Times* also reported in a related front-page story.

Without defending bankers' egregious behavior, there are significant differences between the two crises that seem to leave so many off the hook this time. Thrift-era prosecutions centered on a moribund industry without the financial muscle of banks today. Its outcome may have prepared eventual suspects to steer clear of incrimination this time. (Swift work by the **Resolution Trust Corp.** also spawned the first sales of subprime securities, but that's another story.)

In any case, most laws broken then featured twists on fraud and malfeasance familiar to prosecutors and juries. Somebody usually robbed Peter to pay Paul with depositors' or investors' money.

In the recent financial crisis, by contrast, most of the alleged crimes fall between stools: borrowers with poor judgment seated on one and, on the other, lenders incentivized to indulge them to excess. Yes, as the [FCIC Report](#) carefully documents, the run-up to the crisis featured an epidemic of poor and devious choices that caused badly flawed securities to run riot while banks beefed up bottom lines. Individuals were hornswoggled.

Thank Congress for crisis

But in its wisdom Congress had specifically exempted derivatives from regulation. Inflated leverage duly authorized by regulators made a fragile big picture more delicate. Meanwhile gigantic government-sponsored mortgage entities, **Fannie Mae** and **Freddie Mac**, raced into subprime securities to stay competitive with Wall Street.

Laying solid indictments at doorsteps requires a clear crime that defense attorneys can't obfuscate. Absent that detail, frustration lurks for those of us who want to see scoundrels behind bars for the havoc they caused. But as the new report shows, it won't stop senators from shaking fingers at groups that can't hurt them.

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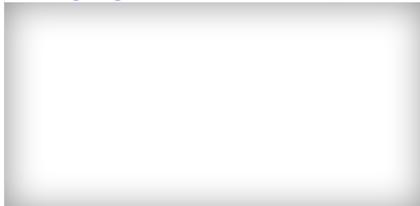


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