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Friday, 09 July 2010 14:53

When something man-made goes wrong, who is responsible? Normally in the United States, when a misfortune or catastrophe involving a product or service strikes, the corporation producing the product or service is liable in a civil proceeding for compensation to the victims.

Occasionally, a corporation, even as a fictitious person and not a natural person, may be charged in a criminal proceeding (i.e., the Arthur Andersen accounting firm). Infrequently, an individual in senior management may be held accountable in a civil action. The rarest of cases would seem to be that of an individual in senior management at a large corporation being prosecuted under any relevant criminal statute.

Why should we care about this? Because in recent decades, whether in industries or with specific products, major failures have caused grave harm to people, property, industries, commerce, even local and national economies.

So, back to the question of who is responsible. Here's some food for thought:

The U.S. Supreme Court, on two different occasions, 32 years apart, has enunciated a helpful doctrine—*the Responsible Corporate Officer Doctrine*. It would hold senior-level people in a major corporation, or business owners in smaller corporations who have organizational authority (power), personally and strictly liable in a criminal proceeding for non-compliance of regulations dealing with health, safety and public welfare rules resulting in death, personal injury, property damages and damage to an industry, commerce or the economy.

Usually, senior leaders would be able to avail themselves of the corporate entity as a shield to ward off their responsibility. They couldn't do that under the Responsible Corporate Officer Doctrine.

Instead of the corporation being charged as a wrongdoer, the individual would bear the responsibility personally. The typical defenses would not be available: "I did not intend to do harm," "I did not know" and "I did not participate" would not prevail. As long as such people owed a duty of care, organizations under their "watch" should have complied with relevant rules and regulations.

Under this doctrine, inaction or, more particularly, non-compliance, would trigger prosecution. The law provides for no escape or allowance for people and organizations to be careless, reckless or take excessive risks. They can't elevate profit above all other considerations in regulated industries. Safety matters. (The Responsible Corporate Officer Doctrine also applies to the environmental area. Federal and state environmental laws are civil and criminal.)

Fortunately, for those who are concerned, cautious, willing to abide by the rules and be held responsible and accountable to both shareholders and other stakeholders, there are ways to mitigate the failures from even occurring: Something known as GRC applies. This acronym stands for Governance, Risk and Compliance, and it will be the topic of a later article. **MT**

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The opinions expressed in this Viewpoint section are those of the author, and don't necessarily reflect those of the staff and management of Maintenance Technology magazine.