

***Beverly Hills Supper Club Fire
Review Team
Report to the Governor
2009***

March 12, 2009

BEVERLY HILLS SUPPER CLUB FIRE

Introduction: A group called “the Beverly Hills Survivors for Justice” has requested Governor Steve Beshear to consider re-investigating the Beverly Hills Supper Club fire that occurred in 1977 and killed 165 people; in making this request, the Survivors for Justice expressed a belief that the fire resulted from arson rather than accident . Governor Beshear requested that the undersigned group (hereinafter called the Governor’s Review Team) meet with the Survivors for Justice and then give him an opinion as to whether investigation of the 31 year old tragedy should be reopened by the Commonwealth of Kentucky in order to determine if the fire resulted from arson (as alleged and believed by the Survivors for Justice).

Preliminary Inquiry: In an effort to provide Governor Beshear the advice he seeks, the Review Team conducted on its own the following preliminary inquiry:

(A) As requested by the Governor, the Review Team met with the Survivors for Justice in order to give the Survivors group a full opportunity to explain their belief in the need for re-investigation of the fire. The group that appeared for this meeting included seven people (some firemen, a retired building inspector, a fire school professor, two former employees of the Beverly Hills Supper Club, and a spokesman for the Survivors group); only one of the seven (a former employee) claimed to have any personal knowledge of the facts supporting the Group’s belief that the building was deliberately burned down on May 28, 1977. The Survivors gave to the Review Team a modest amount of written materials concerning the fire, set out the basis for their belief that the fire involved arson rather than accident (as described below), and expressed a firm belief that the Commonwealth of Kentucky “had rushed to judgment” in its 1977-1978 investigations of the fire. At the end of this meeting (which lasted for more than half-a-day), the Survivors were invited to submit to the Review Team any and all additional information thought to be pertinent to their request for a re-investigation of the fire.

(B) During the months following the above described meeting, the Survivors for Justice submitted additional information to the Review Team for review

and evaluation. It consisted of depositions and parts of depositions (from the extensive civil litigation that occurred in the court system in the early years after the fire), sworn statements obtained by the Kentucky State Police in its 1977 and 1978 investigation of the fire, unsworn statements obtained by Survivors for Justice in support of their beliefs in arson and their request for re-investigation, newspaper stories about the fire, identities of people for possible interviews about the fire, and other miscellaneous matters. The Survivors group attached to their submissions what they believed to be the connection of the submitted materials to the positions earlier stated in the meeting with the Review Team. Each and every one of these submissions was carefully reviewed for content, scrutinized for credibility, and weighed in conjunction with the materials provided during the meeting described above.

(C) In conjunction with all of the information gathered from the Survivors group, the Governor's Review Team took account of the most important investigative reports published about the fire immediately after it occurred. This included the report to the then existing Governor by the Kentucky State Police, the report of an investigation of the fire conducted by the National Fire Protection Association, and a report by a Special Prosecutor appointed by the Governor in 1978 to review these other investigations alongside an investigation conducted by a Campbell County Grand Jury. It must be noted that in none of these reports was there any mention whatsoever of the possibility that the Supper Club involved arson; and the same is true of the written products of the extensive civil litigation that followed the fire.

At the end of this preliminary inquiry, the basis for the belief by the Survivors for Justice that the Beverly Hills Supper Club fire was arson rather than accident was clear.

The Belief and Accusation: The Survivors for Justice rest a lion's share of their belief and accusation that the fire was arson on the words of two former employees of the Club who were in the building on the day and at the time of the fire. One of the two was 21 years old at the time of the fire and working for the Club as a waitress in the room where the fire started (known as the Zebra Room) and the other was an 18 year old at the time of the fire and working for

the Club as a busboy. The following is a brief summary of the information provided by the two employees:

(A) On the day of the fire (some hours before the fire), they saw two men in the Zebra Room “who were not supposed to be there,” who were working in the ceiling area of that room, and who “falsely claimed” to be working on the air conditioning system. Additionally, the former waitress saw the men wiping down the walls of this room (where the fire started) with some kind of substance. Their descriptions of the unusual activities they observed in the Zebra Room are very similar. However, the waitress states additionally that she saw two women and one other man (all of whom she connects to the two men in the Zebra Room) wiping down the walls of the corridor outside the Zebra Room on this same day (the corridor running through the building to the showroom where most of the victims were killed).

(B) One of the two employees (the 21 year old waitress) told of overhearing a threatening conversation between two men in pin-striped suits and the owners of the Club (Richard Shilling, Jr. and his two younger brothers); this conversation is alleged to have taken place sometime on April 20, 1977 (about 5 weeks ahead of the fire). The waitress said that the two men sought to purchase the Club from the Schillings, were told that the Club was not for sale, and in response thereto told Richard Schilling, Jr. and his brothers that they would not have the building long if they did not cooperate (i.e., sell the Club to the men). This employee says that the two men in the pin-striped suits who threatened the Schilling brothers were the same two men she saw in the Zebra Room (working in the ceiling and wiping down the walls with some kind of substance) on the day of the fire. The other employee (the former busboy) does not claim to have overheard this conversation but does provide a description of the men he saw in the Zebra Room that matches the description given of the men by the waitress.

The two employees do not claim to have seen the two men install incendiary devices in the ceiling of the Zebra Room nor do they claim to know the nature of the substances rubbed on the walls. But they claim that the two men perpetrated arson at the Supper Club and killed the 165 people who died in the fire, though the Survivors Group as a whole splits over what they believe to be the motivating force behind the arson. One segment believes that the building

was burned by men angered by a refusal of the owners to sell them the building while the other believes that the building was burned by men angered over being fired by the Club's owners.

An Independent Inquiry: How do you bridge the obvious and huge gap between the claims provided by the Survivors for Justice (that there were two men in the Zebra Room on the day of the fire pretending to be working on the Club's air-conditioning system) and the conclusion that they choose to draw from their claims (that the two men deliberately burned the Supper Club and killed 165 people)? Why would persons intent upon deliberately burning an important building like the Beverly Hills Supper Club enter the building in the middle of the day while it was heavily occupied and spend hours in the midst of people who could identify them as arsonists rather than burning the building in the darkness of night and in the absence of witnesses? Looking for help with these questions (and a third that is described below), the Review Team decided to request an outside/independent evaluation of the information set out above by one of the state's professional investigative agencies. Because the Survivors for Justice had requested that further investigation of the fire be done without involvement of the Kentucky State Police, the Review Team sought and obtained the independent inquiry they wanted from the Office of Inspector General of the Kentucky Public Protection, Environment and Energy, and Labor Cabinets (hereinafter called the Office of Inspector General).

The Office of Inspector General (employing a combination of investigators and a lawyer) carefully evaluated the information provided by the Survivors for Justice and then extended the inquiry described above by conducting a series of investigative interviews (some face-to-face under oath and some by telephone) with persons thought to have information pertinent to the question of whether to reopen the investigation of the fire. Most importantly, the professionals of this Office conducted lengthy face-to-face interviews of the former employees upon whom the Survivors for Justice so heavily rely and they conducted a telephone interview of Richard Schilling, Jr. The following is a brief summary of what the professionals of this Office found and reported to the undersigned (see attached Report of Beverly Hills Supper Club Fire by Office of Inspector General):

(A) Former Employees: The former waitress and busboy were questioned under oath for two-to-three hours each, with the interviews preserved on videotape. The former employees provided almost the same information to this Office that they earlier provided to the Review Team (i.e., saw two men in the Zebra Room working on the air-conditioning system and wiping down the walls). They were invited and encouraged at the end of the questioning to provide any additional information they had that would suggest that the fire was arson rather than accident; the busboy added nothing to his earlier statement and the waitress added that the two men in the Zebra Room had made statements she considered threatening. Both former employees said that notwithstanding the concerns they felt on the day and evening of the fire they made no report of their observations to the Club's managers.

(B) Third Question: The information upon which the Survivors for Justice rely for their beliefs and accusation seems to have been hidden from the eyes and ears of investigators for more than 30 years; at least, it attracted no attention in the official investigative reports on the fire and appears not to have surfaced in any of the lengthy litigation over the fire . Why? Both of the former employees were questioned about the fire by the Kentucky State Police in the days and weeks after the fire and both gave depositions in the fire litigation. The professionals from the Office of Inspector General questioned the former employees on this subject and got almost the same explanation from both.

The busboy said that on the day after the fire his mother told him to keep his mouth shut about seeing the two men in the Zebra Room or he would get himself and his family killed. The waitress said that on the night of the fire her mother told her that for her own safety she should never say anything about the men in the Zebra Room or the threat to the Schillings. Both said they had maintained their silence out of fear for their own safety and the safety of family members; the waitress said that she had received numerous anonymous telephone threats on this subject over a period of years after the fire (although she had made no effort to record any of them and had made no report of the threats to police).

However, the busboy said that shortly after the fire (in an interview with the Kentucky State Police) he pushed his fears aside, that he told the State

Police about the two men in the Zebra Room, that the State Police told him they had no interest in the subject (and even told him to keep his mouth shut about the matter), and that the Police did not report what he told them about the unusual activities in the Zebra Room. He also said that when he was deposed in the litigation over the fire (after his encounter with the State police) he told lawyers about the activities in the Zebra Room and that the lawyers told him that they had no interest in the subject and thus never asked him any questions about the Zebra Room activities he had observed. And the waitress said much the same. She pushed her fears aside shortly after the fire, told the State Police about the events in the Zebra Room and the overheard threat to the Schilling brothers by the men in the pin-striped suits, but the State Police did not include in their written report of the interview what she told them on these subjects; she also said that when giving a deposition in the litigation over the fire she disclosed the two events described above but that the court reporter failed to include this part of her testimony in the deposition transcript (an omission that seems not to have drawn any attention from lawyers involved in the litigation).

(C) Richard Schilling, Jr.: Richard Schilling, Jr. is the oldest of three sons of the deceased owner of the Beverly Hills Supper Club and the one most heavily involved in the management of the Club at the time of the fire. The Office of Inspector General interviewed Mr. Schilling by telephone shortly after concluding the face-to-face interviews with the former busboy and waitress. Mr. Schilling said that he had never had a conversation in the barroom (or any other part of the Club) like the one reported by the former waitress. He said that he had never received an offer to buy the building accompanied by a threat to destroy it and that he had received no threat of any kind to burn the building before the 1977 fire. He further stated that he had absolutely no reason to believe that the fire was anything other than an accident.

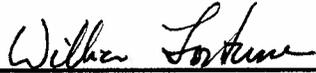
In reporting these matters (and much more) to the Review Team, the Office of Inspector General indicated full concurrence with the conclusion reached by the undersigned and reported below.

Conclusion: The Beverly Hills Supper Club tragedy occurred more than thirty years ago. It was fully, carefully, and competently investigated shortly

after it occurred (simultaneously by the Kentucky State Police and by some of the best fire investigators in the country from the National Fire Protection Association); and it was investigated by the Campbell County Grand Jury and was fully reinvestigated by a Special Prosecutor for the State of Kentucky. On the heels of these investigations, the tragedy entered the court system to be subjected to unbelievable scrutiny by parties with much at stake and sufficient resources to hire the best lawyers, the best investigators, and the best experts available; in this very important litigation, which lasted for years, the one issue that predominated over all others was the issue of causation. What was the cause of the fire and the tragedy? And, in examining this crucial issue, none of the investigations conducted near the time of the fire and none of the litigation of the fire uncovered and reported a single shred of evidence indicating that the fire resulted from acts of arson.

Now, more than 30 years after the fire and claiming that the tragedy flowed from arson rather than accident, the Survivors for Justice ask for another investigation of the fire (with the fire site gone, with memories faded, and with potential witnesses dead or otherwise unavailable). In making their request, the Survivors for Justice delivered to the Governor and to the Review Team a very tiny shred of evidence of arson and a huge mountain of conjecture, unsupported speculation, and personal opinion. With full conviction and no hesitation, the Review Team and the Office of Inspector General have concluded that the information delivered to Governor Beshear falls many miles short of the kind of proof that would be needed to justify a very lengthy, very difficult, and predictably unproductive re-investigation of a tragedy that was carefully and competently investigated and re-investigated three decades ago.


Cecil Dunn


William Fortune


Robert Lawson

Date: March 12, 2009

ATTACHMENT

Commonwealth of Kentucky
Labor, Public Protection, and Energy and
Environment cabinets
OFFICE OF INSPECTOR GENERAL

Beverly Hills Supper Club Fire

Case Review 2009

March 12, 2009

**Commonwealth of Kentucky
Labor, Public Protection, and
Energy and Environment cabinets
OFFICE OF INSPECTOR GENERAL**

Date of Report: March 12, 2009

**Report of Beverly Hills Supper Club Fire Review
Case No: 2008-OIG-0003**

In the *Report of the Special Prosecutor* in February 1979, the Special Prosecutor determined that there was insufficient evidence to conduct “an original investigation” of the Beverly Hills Supper Club Fire (hereinafter referred to as “BHSCF”) and that there was insufficient evidence to take it to another grand jury for purposes of securing indictments. At the time of the Special Prosecutor’s appointment, there had been three major investigations into the cause of that fire. One was done by Kentucky State Police (hereinafter referred to as “KSP”) and titled *Investigative Report to the Governor: Beverly Hills Supper Club Fire, May 28, 1977*. Another investigation was conducted by the Campbell County grand jury. The third was conducted by the National Fire Protection Association. No evidence of arson was generated in any of these reports. No indictments were returned. There were certainly no findings suggesting arson found by the Special Prosecutor in his report to then Attorney General Robert F. Stephens.

In November 2008, the Beverly Hills Supper Club Fire Survivors for Justice (hereinafter referred to as “the Survivors”) requested that Governor Steven L. Beshear appoint a committee to review the evidence that they had gathered and to “reopen” the BHSCF investigation. The Review Team appointed by the Governor is composed of Cecil Dunn, the former Special Prosecutor, Professor Bob Lawson, University of

Kentucky College of Law, and Professor Bill Fortune, University of Kentucky College of Law. The Review Team, with the help of the Office of Inspector General (hereinafter referred to as "OIG") for the Labor, Public Protection, and Energy and Environment cabinets, has finished its review. Of the six "eyewitnesses" listed in the Survivors' materials, all were either interviewed or their previously transcribed statements were reviewed. There follows a summary of the eyewitness statements as well as that of others suggested by the Survivors. At least 35 depositions and statements forwarded to OIG in the wake of the interviews were reviewed by that office as well as the Review Team.

As one of the members of the Survivors' group stated when meeting with the Review Team, there is no prospect of investigating the Fire's origin thirty-one years after the Fire. All of the physical evidence is gone. Even with the Survivors' claim of a "rush to judgment" at the time of the original investigation, there would still be no prospect of uncovering accelerants or other materials which may have been used to start the Fire. The focus of the Review Team is to determine if there is sufficient evidence of individuals who may be determined to be responsible for the destruction of life and property that night, rather than the structural or wiring deficiencies found in the previous investigations. It should also be remembered that in yet another investigation of the Fire, the civil case filed in federal court, there was a finding that aluminum wiring was to blame for the Fire.

Shirley (Baker) Turner:

One of the primary witnesses recommended by the Survivors was Shirley (Baker) Turner, who was a 21-year-old waitress at the time of the Fire. Turner was interviewed on February 5, 2009. She claimed to have overheard a "short, pudgy guy" and a "taller

guy” both in “pin-striped suits” threatening BHSC owner/managers in the “Main Bar on April 20, 1977.” These men allegedly told the owner/managers that they wanted a part of the Club and if they did not get what they wanted the owner/managers might not have the Club much longer.

These same men, who threatened the owner/managers, were allegedly observed by Turner at least two different times on the day of the Fire in the Zebra Room, where the Fire was found to have originated. The men claimed to be fixing the air-conditioning. When questioned by her as to why they were “washing down the walls,” they claimed that they had spilled some chemicals on the walls. She claims to have challenged the two men by telling them, “wires and chemicals don’t have anything to do with each other—something isn’t right...You shouldn’t be here.” She left to find one of the owner/managers after the two men threatened her and told her to get out of their way. She said she was unable to find any of the owner/managers, so she related the incidents to two busboys (who are both deceased for reasons unrelated to the Fire). She did not know if the busboys ever told anyone. She also asserts that she witnessed two women and a man washing the walls in the hallway from the ceiling to about “half-way down” the wall outside of the Zebra Room.

Turner admits that on two or more occasions that same evening she asked one of the owner/managers, whom she had earlier sought, to adjust the air-conditioning in the Zebra Room because patrons were complaining about the heat. Yet she never told him that the same two men who threatened him and two other BHSC owner/managers were in the Zebra Room working in the ceiling, washing down the walls, and threatening her. Even though she claims to have recognized these men as the same ones who made threats

only weeks before, she said that she did not give it much thought until after she received her first threatening phone call telling her not to say anything about having seen these same two men. She claimed to have received the first of what was to be a long line of such calls in December 1977.

Although she admitted to never having written down any of the details of what occurred the night of the Fire or thereafter, she does claim to have told KSP about the two men in the Zebra Room as well as about the two women and man wiping the walls outside of the Zebra Room in two interviews conducted within days of the Fire. According to Turner, KSP did not want to hear about her “fabrications” or anything that did not involve the BHSC owner/managers.

In fact, Turner kept her silence about what she had seen for another two years following the KSP interviews. By this time she had begun receiving threatening phone calls and was “scared.” In a deposition taken in the civil suit under oath on June 19, 1979, she was asked about the Zebra Room at 2:45 on the afternoon before the Fire was discovered. She confirmed that everything was “normal.” She smelled nothing, heard nothing, nor felt anything unusual. She testified that she thought there was nothing unusual about the heat and attributed it to cigarette smoking and the fact that it often became hot in the Zebra Room. She stated that she told one of the plaintiffs’ attorneys about what she had seen on the day of the Fire but he did not want to talk about it.

Turner’s reasons for keeping quiet range from being scared to having the recorders turned off by KSP and the attorneys in the civil case while giving her statements. In the interview she stated that she first came forward in 2006, when she discovered that another Survivor, Wayne Dammert, and Ron Elliott had written a book

(The Beverly Hills Supper Club Fire). In the interval between May 28, 1977, and December 1977, when she said she received her first threatening phone call, she had no reason for not coming forward other than because her mother told her not to say anything. Her mother is now deceased.

KSP specifically asked Turner about the people working on the air-conditioning in the Supper Club. She replied that she had not seen anyone working on it for a period of 2 ½ months prior to the Fire. The attorneys in the civil case asked her about seeing anyone cleaning the walls in the north-south corridor (located outside the Zebra Room). She said that the last time she saw them clean "...was like maybe a week or so before the Fire started." She stated that the cleaning product was bleach and that she saw nothing else used to clean the walls.

Turner claimed that some of the threatening calls were made on the life of her son. The threats ceased only in 1988, when she remarried and took the name of her husband. When she decided to talk about her experiences, she was referred to another Survivor, David Brock, who was working as a busboy at BHSC on the night of the Fire and whose testimony will be reviewed later in this report. Brock was described to her by Dammert as having seen the men in the Zebra Room whom she had seen. Turner went to her first Survivors' reunion in May 2008, the thirty-first anniversary of the Fire. In preparation for the Survivors' meeting on October 17 - 19, 2008, she was encouraged to reduce to writing what she had seen and experienced. It was that written narrative which served as a basis for her interview in February 2009. She stated that only her husband and a friend knew about her reports of threats.

Turner's husband:

Turner's husband was interviewed by telephone on February 9, 2009. He could not confirm any of the alleged threatening phone calls but did know that his wife quit reporting them after he suggested marrying and changing her name to his. He could not link damage to the family vehicle in November 2008 to the Fire. Unfortunately, he died of natural causes a few days after the interview.

Turner's friend:

A friend of Turner's was interviewed by telephone on February 9, 2009. She was attending her own wedding reception at the Supper Club on the night of the Fire. She talked to Turner for the first time in 2007. She did not meet her until the Survivors' meetings held in October 2008. This friend was unable to verify any of the threats against Turner except that she had told her about them, including the damage to her vehicle in November 2008. However, this friend said she believed that Turner's life was in danger.

David Brock:

David Brock was working as a busboy at BHSC on the night of the Fire. He was interviewed on February 11, 2009. He readily admitted that he is presently assisting a Northern Kentuckian, who is writing a book about the "truth" concerning the Fire, which "no one has done before." As in the case of Turner, Brock disowns his sworn deposition taken in the civil case on June 26, 1979. In that deposition, he stated that he set up the Zebra Room for a wedding party and saw another busboy kick in the Zebra Room door during the Fire. He did not mention the men he now states he saw in the room on the afternoon of the Fire. He now claims he was "intimidated" by one of the plaintiffs'

attorneys, who told him that he did not want to hear about the two men. He claimed he was also “scared,” although he admitted to not having been threatened until recently when one of the plaintiff’s attorneys called and told him “to keep his mouth shut.”

Brock claims that he told KSP about the men in an unrecorded interview right after the Fire, but they said that they did not want to go after the two men. At one point in his February 2009 interview, he claimed not to have been interested in telling the truth at the time of his deposition. He stated, “I lied.” At the time of the interview with OIG, he was not even sure whether he set up the Zebra Room as he had stated in his deposition and blamed his failure to set up on the presence of the two men. Brock described one man as a “shorter, bald-haired man, stocky” and the other as a “taller gentleman,” both on ladders working above the chandelier in the Zebra Room. The two men matched the description given by Turner. He stated that he walked in on the two men at least three times in the Zebra Room and that they told him they were working on the air-conditioning system. He said that other employees saw the two men “all over the building” that day. The only confirmation of their sighting was supplied by Turner some 29 years after the Fire when she claims to have told her story to Dammert and other Survivors.

Brock could think of no physical evidence or additional facts which would support that the Supper Club was burned down intentionally. He did not know how the Fire began or whether it was arson. He simply knew “in (his) heart that the two men should not have been in that room.” He concluded his interview by asking that the interviewers bring in two air-conditioning men who he thought were responsible for the Fire. Their interviews will be discussed later.

In 2007, with the help of a blogger, Brock found the names of two men who ran an air-conditioning company which he alleged had done faulty work for the Supper Club and had been terminated from employment in December 1976. According to Brock, their firing without being paid supplied the motive for them to burn down the Supper Club. One of these two men gave his deposition in the civil case in 1978. To flesh out this theory, Brock surmised that the men may have used a highly flammable “liquid graphite extender” on the air-conditioning fittings. He said this substance could have caused the physical complaints reported by the BHSC reservation clerk (whose testimony is reviewed later herein). Brock also claimed to have learned that there was no air-conditioning unit in the Zebra Room. Thus, there would have been no need for the men to have been in the ceiling to fix the air-conditioning.

Two air-conditioning men:

Two men who Brock alleges were working on the air-conditioning in the days preceding and on the day of the Fire were interviewed. They claimed they were not in the Supper Club on the days alleged by Brock, had not been fired by BHSC owner/managers, and had continued to service the air-conditioning at the Supper Club when requested.

Tax Consultant:

At Brock’s suggestion, a tax consultant, working on lost earnings in the death cases, was interviewed by phone. He asserted that although he was not an attorney he read reports of fire experts, employed by attorneys in the civil case. Some of these privately retained experts found that the Fire was due to “unknown causes.” Others attributed the cause to electrical wiring. Yet another group expressed the opinion that it

was due to timing devices in the ceiling which engaged twelve hours too early. There is no evidence that these timing devices were recovered.

Firefighter #1:

Firefighter #1 was interviewed by telephone on February 20, 2009. He was dining with his family at the Beverly Hills Supper Club the night of the May 28, 1977 fire. In a statement to KSP, he stated that the Fire spread very rapidly and that “Fires that are accelerated act this way.” Initially, he did not believe that the Fire was incendiary in origin. He stated that he began to suspect arson only after reading the editorial by Bobby Halton in the December 2008 issue of *Fire Engineering* magazine. The editorial claimed the following about the Beverly Hills Supper Club fire: “...destruction of the suspected area of origin within a day of the fire: The Zebra Room, where many believe the fire started in the ceiling...three people saw men working in the room right before the fire...The physical evidence that formed the basis for blaming the fire on electrical equipment, a section of aluminum wiring found in storage years after the fire, lacks credibility under modern accepted fire investigation practices.”

Spouse of a BHSC owner/manager:

A spouse of a BHSC owner/manager at the time of the Fire was interviewed by telephone on February 10, 2009. She stated that she received a letter composed of newspaper script stating, “We burned you down once, we’ll burn you down again. You keep building, we’ll keep burning.” She could not determine if the letter came the day of or the day after the Fire and did not recall to whom she had given it. She said that she heard men talking outside her home during the night after the Fire. Thinking they were about to break in, she yelled that she had a gun and the men dispersed. She could not

remember a statement attributed to her by one of the Survivors reporting that KSP investigators arrived the day after the Fire and said, "We start bulldozing tomorrow," but did recall that a KSP investigator told her and her husband there was "no suspicion of arson."

According to the *Investigative Report to the Governor* (KSP Report), the on-site team did not even finish its scene investigation and collection of evidence until Friday, June 10, 1977, nearly two weeks after the Fire. Following extinguishment of the Fire on the morning of May 29, 1977, a search for victims continued using heavy equipment and KSP personnel. It was not until June 11, 1977, that the property was turned over to the owners. This report does not support the theory that the Supper Club premises were leveled the day after the Fire.

Rick Schilling, Jr.:

A phone interview with Rick Schilling, Jr., one of the BHSC owner/managers, was conducted and recorded on February 10, 2009. He stated that he worked the night of the Fire and had no reason to suspect arson. He said the visit Turner described from two threatening men in pin-striped suits "never happened." He claimed that he could not remember anyone calling him the day of the Fire and reporting two suspicious men working at the club. He also stated that a threatening letter composed of newspaper clippings was never received and that an attempted burglary of his home shortly after the Fire did not occur. According to Schilling, KSP did tell him and his wife about some of their plans, particularly how bodies were going to be recovered. He did not remember when they started bulldozing. He stated that he had not fired any air-conditioning or electrical employees within six months of the Fire but that his father (now deceased) was

in charge of terminating employees. He did not remember any employees being disgruntled with him. To the contrary, in the materials reviewed from 30 years ago, it was evident that BHSC employees enjoyed their jobs.

The first he had heard about the arson theory was when Brock began talking about it in earnest within the last six to nine months. Schilling turned over thirty boxes of his attorneys' litigation files to Brock. He asked Brock to make sure of his theory before putting the survivors through pain once again. He denies telling Brock close to the time of the Fire that he knew he had been "burned down."

Firefighter #2:

At the suggestion of the Survivors, Firefighter #2, an employee of Cincinnati Bell and volunteer firefighter at the time of the Fire, was asked on January 30, February 4 and 10, 2009, to give his recorded testimony. During one call, he said that there was no evidence that the BHSCF was caused by arson. When asked a third time for a short recorded statement, he said in no uncertain terms that he would not be giving an interview.

According to Brock, Firefighter #2 was "pulling (telephone) cable" in his capacity as a telephone repairman in the Zebra Room of BHSC on the Thursday and Friday before the Fire, May 26 and 27, 1977. An interview conducted by the Survivors on September 5, 2008, reported that Firefighter #2 saw two air-conditioning men working in the ceiling in the Zebra Room. They supposedly kept asking him when he was going to finish his job so they could work in that area. These statements were never corroborated by Firefighter #2 during the three telephone calls with the interviewers. He also claimed that a member of the Survivors had been "driving (him) crazy" about giving a statement.

BHSC reservation clerk:

The reservation clerk at BHSC at the time of the Fire is now deceased. However, she gave three depositions in the civil case in 1977 (deposition undated); on August 11, 1978; and October 31, 1979, as well as a recorded statement to KSP in the days following the Fire. In the statement, she recalled two air-conditioning men who caused an explosion in the laundry room “two weeks ago.” It was neither specified as being on the day of the Fire nor as having occurred in the Zebra Room. In one of her depositions, she made it clear that the explosion occurred in the basement of the Supper Club “a week before the Fire.” She also stated that the men were laughing as they came up the stairs from the basement. She testified that the men in the laundry room worked for a company other than the one identified by Brock as having been fired and bearing a grudge against the BHSC owner/managers. The plaintiffs’ attorneys specifically asked her about men working on air-conditioning on the afternoon of the Fire or within the last days prior to the Fire. Although she was listed as an “eyewitness” on the Survivors’ list, she did not corroborate the allegations of Turner and Brock regarding men in the Zebra Room on the afternoon of May 28, 1977.

Brock claimed that at the twentieth Survivor’s reunion the former BHSC reservation clerk told him that she had seen the two men in the Zebra Room the day of the Fire but had been told by one of the plaintiffs’ attorneys to not talk about the two men. Yet, she not only talked about the “two men” but specifically indentified them as being there a week before the Fire, which differed from her KSP statement only to the extent that she said the laundry room incident occurred two weeks before the Fire. Brock claims KSP cut her off before she could name the air conditioning company for whom

the men worked. She stated the acronym of the company's name at both her KSP interview and in her deposition although the letters differed to some extent. There was no evidence found to substantiate her being "cut off" by KSP.

This witness testified that on the day of the Fire she had been warm and thirsty and had gone to the Zebra Room several times to get a drink of punch and observed nothing out of the ordinary. She requested the punch from Shirley (Baker) Turner, who told her how well the wedding party went and how pleased the guests were with her services. Later, after observing smoke in her "cubbyhole" she left her reservation area next to the Zebra Room and noticed that her "nail polish...bubbled because it was so warm." She stated that her eyes watered all the time because she had Bell's palsy but her eyes teared more than usual that day. The skin on her ears, chest, arms, and thighs broke out which a doctor in California diagnosed as a "staph infection." She was involved in a workers' compensation claim that related this condition to the Fire. The testimony of this witness was consistent with her KSP statement. She simply did not report seeing the same things that Brock and Turner are now reporting that occurred on the day of the Fire.

BHSC stock boy and busboy:

Two other BHSC employees, a stock boy and a busboy, were the remaining eyewitnesses on the Survivors' list. In his recorded statement to KSP on June 9, 1979, the stock boy, in reply to specific questioning about equipment, described a man fixing the air-conditioning in the basement on "Friday." He was said to have been there for a long time. However, he said, "...later in the week or a week or two ago, he had to fix the boiler or air conditioning or something and he was back." It is impossible to determine whether he was referring to the Friday before the Fire or the one within a week or two of

the Fire. Even if he were speaking of Friday, May 27, 1977, there was nothing unusual according to the stock boy. Furthermore, he did not relate any of these activities to the Zebra Room. He stated, "...I have never seen the Zebra Room."

The busboy referred to in the previous paragraph was only sixteen at the time of the Fire. He was specifically asked by KSP as to whether he had heard the Fire was set by "organized crime...or by somebody that had hard feelings because they were fired or demoted or treated unfairly?" To this he replied, "No." This type of questioning pertaining to arson (employed with Firefighter #1 as well) militates against Brock's and Turner's complaints that KSP did not want to hear about the Fire being intentionally set. Assistance in locating this witness was requested of one of the Survivors, but no information was forthcoming. OIG was unable to interview him.



Deedra Benthall
Deedra Benthall
Inspector General
Labor, Public Protection, and
Energy and Environment cabinets

END OF REPORT
