

**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's 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 identified 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.

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END OF REPORT
