

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.

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