

SLED reviews records for signs of negligence

By Glenn Smith

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A team of State Law Enforcement Division agents is reviewing records from the Sofa Super Store blaze for signs of criminal negligence on the part of commanders who oversaw the attack on the inferno in which nine firemen died, authorities said.

Ninth Circuit Solicitor Scarlett Wilson requested the review after meeting with relatives of two firefighters who died in the June 18, 2007, inferno. Family members of captains Louis Mulkey and William Hutchinson gave Wilson eight binders of materials they say prove that commanders exposed fire crews to unnecessary and deadly risks with insufficient training and leadership.

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"This is all about the truth," said Randy Hutchinson, who lost his brother in the fire. "Wherever it goes, it goes. But the truth has to come out. It's been withheld for too long."

Wilson already has the results of an 18-month criminal investigation into the fire conducted by Charleston police. She received that case file in late 2008, but she has held off deciding on possible charges until all studies of the fire have been completed. One major federal study -- a computer model to reconstruct the blaze -- is said to be a few months from completion.

Previous reports have faulted the actions of commanders. A May 2008 report by a city-appointed panel of fire experts cited command failures as a predominant factor in the Fire Department's unstructured and uncoordinated response to the blaze, which exposed firefighters to "excessive and avoidable risks." The reports, however, haven't touched on whether those actions rose to the level of criminality.

Randy Hutchinson, his mother and Mulkey's parents are pushing for SLED to officially reopen the criminal investigation and conduct an independent inquiry into the actions of former Fire Chief Rusty Thomas and others. They contend that Charleston police have an inherent conflict of interest in the matter and they have little faith that police investigators even considered negligence by officials at their sister agency.

"I don't believe the Charleston Police Department is competent enough to investigate the Charleston Fire Department," said Mike Mulkey, whose son died in the fire. "A police officer is not trained to fight fires or know what to do inside a burning building. This is a like a fox in the henhouse. It's totally inappropriate."

City officials deny a conflict, and Police Chief Greg Mullen insists his department conducted a thorough investigation that explored every angle.

Sandy Senn, an attorney who represents the city and Thomas, said the fire already has been investigated by numerous agencies, including SLED, and none has offered evidence suggesting criminal culpability on the part of fire ground commanders.

"Our criminal justice system has historically not allowed itself to be used by groups who base their allegations on emotion and have no legal basis to threaten prosecution," she said. "I expect this case to be no different."

The Hutchinsons and Mulkeys met with Wilson in October and gave her a large "reference library" of materials and reports about the fire, along with video footage and a long list of people who should be interviewed and questions that should be asked, Randy Hutchinson said. Working with other relatives and past and present firefighters, the group since has uncovered more evidence it wants to share with investigators, he said.

They said Wilson pledged to have SLED reopen the investigation, but they have seen little action since that point and they worry the solicitor is dragging her heels.

Wilson said she has done exactly as she promised. She turned over all materials to SLED and asked agents to review the case to see if anything had been overlooked, figuring it wouldn't hurt to have extra eyes on such a complicated investigation, she said.

More than a month ago, SLED put together a group of five agents to review the materials Wilson passed along, agency spokeswoman Jennifer Timmons said. All of the agents are certified fire investigators. They are to meet this week in Columbia, she said.

Wilson said she has given the group no timetable to act, but they have already called with follow-up questions.

"I have confidence that if SLED sees something missing or errant they will follow up on it," she said.

Wilson would not discuss the ground Charleston police covered in their investigation or whether they examined the actions of fire commanders, but she described their efforts as "very dogged and thorough."

"I haven't seen any evidence of any conflict or reticence or hesitancy on the part of the police department," she said. "I believe they were thorough and didn't ignore any aspect of it."

Mullen said he has no problem with SLED taking another look at the case. SLED agents worked closely with city detectives for several months on the investigation. The federal Bureau of Alcohol, Tobacco, Firearms and Explosives; the National Institute of Occupational Safety and Health; and the state Occupational Safety and Health Administration also had roles in the probe.

"We had partner agencies working with us the entire time," he said. "All of the reports that were done by the various agencies were compiled into the information we provided to the solicitor's office."

Still, Randy Hutchinson said his group has found people with crucial accounts of the fire who were never interviewed by police. From what they can tell, police seem to have focused on the cause and origin of the fire while ignoring questions raised about the commanders' actions, he said.

The city's own experts concluded the Fire Department's command system was virtually nonexistent at the blaze, leaving firefighters without supervision or clear instructions and leaving commanders with no idea of who was where and what they were doing. No one was monitoring who was in the building, how long they were inside or how much air they had left in their tanks. Key tasks were left undone and standby rescue teams were never established in the rush to funnel as many people inside as possible, according to the consultants' report.

"Those men were set up to be killed," Mike Mulkey said. "We're just looking for justice and accountability here."

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