



THE STATION
NIGHTCLUB FIRE,
AMERICA'S
DEADLIEST
ROCK CONCERT

JOHN BARYLICK

KILLER SHOW

"... more authentically suspenseful than a John Grisham novel." —*Ralph Nader*



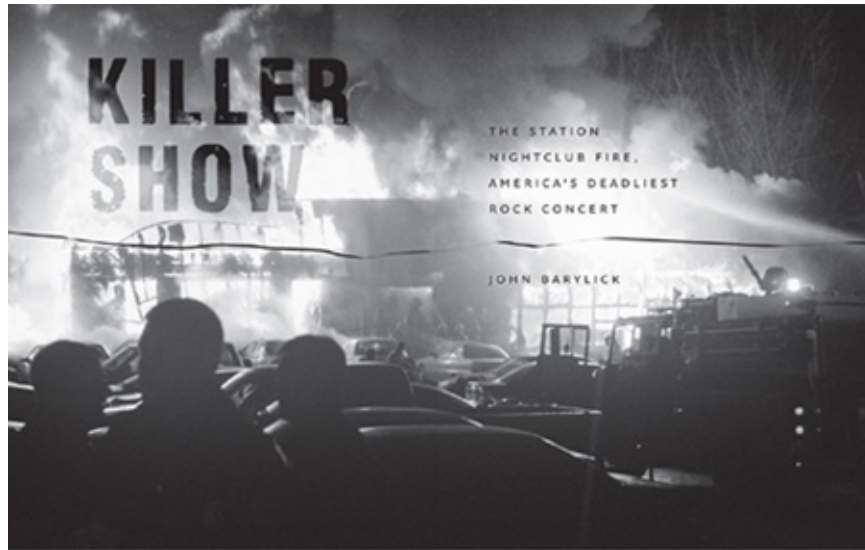
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MAMA TOLD ME NOT TO COME

Words and Music by RANDY NEWMAN

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FOR THE VICTIMS

It's gonna be a killer show.

—Jack Russell, lead singer of Great White, February 20, 2003

killer *adj.* (orig. US) 1 [1970s+] terrific, amazing, effective.. 2 [1980s+] ghastly, terrible.

—*Cassell's Dictionary of Slang*, 1998

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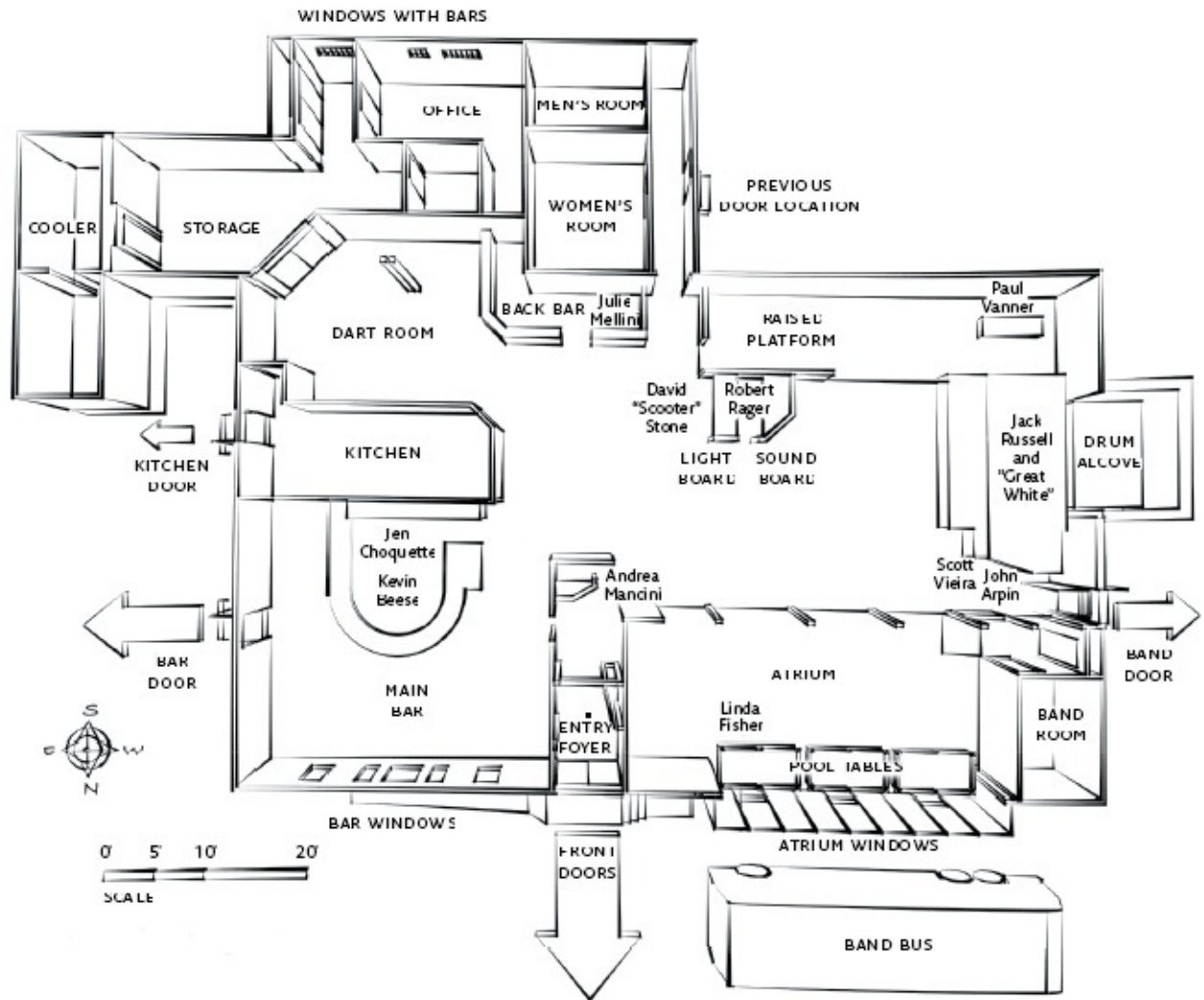
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Floor plan of The Station, with location of individuals at 11 p.m. on February 20, 2003. (Diagram courtesy of Jeff Drake, Drake Exhibits)

CHAPTER 1

SIFTING THE ASHES

FEBRUARY 21, 2003, DAWNED STUNNINGLY CRISP and cold in New England. Over a foot of fresh snow had fallen the previous two days, and conditions were what skiers jokingly call “severe clear” — cloudless blue skies, bright sun, temperatures in the teens, and windchill in single digits. It was, in short, postcard picture-perfect.

On this morning, however, the images being snapped by news photographers in the town of West Warwick, Rhode Island, were hardly Currier and Ives material.

In the southeast corner of town sat a nightclub called The Station — or what was now left of it. At present, it consisted of a smoldering footprint of rubble at the end of a rutted parking lot, surrounded by banks of dirty snow into which burning bar patrons had blindly thrown themselves just eight hours earlier. The site resembled the scene of a battle, fought and lost. Discarded half-burned shirts littered the lot, along with soiled bandages and purple disposable rescuers’ gloves. Hearses had long since supplanted ambulances, the work of firefighters having shifted from rescue to recovery.

Alongside the smoking remains of the club, a hulking yellow excavating machine gingerly picked at the building’s remains. Its operator had demolished many fire-damaged buildings before, but none where each “pick” of the claw might reveal another victim.

Yellow-coated state fire investigators and federal agents wearing “ATF” jackets combed the scene, while a department chaplain divided his time between consoling first responders and praying over each body as it was removed. Only snippets of conversation among the firefighters could be overheard, but one — “bodies stacked like cordwood” — would become the tragedy’s reporting cliché.

And there was no shortage of reporters covering the fire. By late morning, over one hundred of them huddled in a loose group at the site, faces hidden by upturned collars, their steamy exhalations piercing the frigid air at irregular intervals. Stamping circulation into their cold-numbed feet, they awaited any morsel of news, then, fortified, drifted apart to phone in stories or do stand-ups beside network uplink trucks.

Following protocol, all but designated spokesmen avoided contact with the press. The area had immediately been declared a crime scene, and yellow tape, soon to be replaced by chain-link fence, kept reporters far from what remained of the building

itself. During the first daylight hours, news helicopters clattered overhead, their rotor wash kicking up ash and blowing the tarps erected by firefighters to shield the grisly recovery effort from prying eyes. That vantage point was lost after one chopper got so low it blew open body bags containing victims' remains. Immediately, the FAA declared the site a "no-fly" zone. Good footage would be hard to come by.

That is, good *post-fire* footage. Video of the fire itself, from ignition to tragic stampede, had already been broadcast throughout the United States and abroad, because a news cameraman happened to be shooting inside the club. The world had seen the riveting images: an '80s heavy-metal band, Great White, sets off pyrotechnics, igniting foam insulation on the club's walls; concertgoers' festive mood changes in seconds to puzzlement, then concern, then horror as flames race up the stage walls and over the crowd, raining burning plastic on their heads; a deadly scrum forms at the main exit.

Now, all that remained were reporters' questions and a sickening burnt-flesh smell when the biting wind shifted to the south. Among the questioners was Whitney Casey, CNN's youngest reporter, who just hours earlier had exited a Manhattan nightclub following a friend's birthday celebration. Dance music was still echoing in her sleep-deprived head when she arrived at a very different nightclub scene in West Warwick. Casey had covered the World Trade Center collapse as a cub reporter on September 11, 2001. From its preternaturally clear day to desperate families in search of the missing, the Station nightclub fire assignment would have eerie parallels to her 9/11 reporting baptism.

It wasn't long before the sweater and jeans from Casey's "crash bag" (on hand for just such short-notice call-outs) proved a poor match for New England's winter. Shivering alongside the yellow tape line, the CNN reporter spotted State Fire Marshal Irving J. "Jesse" Owens huddling with West Warwick fire chief Charles Hall. She heard questions shouted by her fellow reporters: "Chief, how recently was the club inspected?" "What was the club's capacity?" "Who put that foam up on the walls?" Neither responded. Nor would anyone in authority answer those and other critical questions for a very long time.

State Fire Marshal Owens had the world-weary look of someone who had been investigating fires for thirty years. Thin of hair and pudgy of build, Owens had seen many fatal fires before. But none like this. He had to have heard the reporters' shouted questions in the same way one hears his doctor prattle on after having first pronounced the word "cancer" — as a faint sound drowned out by the rush of racing thoughts. Owens had a lot on his mind. Ten hours before the fire, he had given an interview to Bryan Rourke, a *Providence Journal* reporter, on the subject of a recent Chicago nightclub stampede in which twenty-one people had been killed. "It's very remote something like that would happen here," opined Owens. Now he wondered whether the phone message he left for Rourke while on his way to the Station

conflagration would stop that story from running. “I guess we spoke too soon,” he said in a dejected voice-mail postscript.

Owens had arrived at The Station to find it fully consumed by fire, and triage of survivors already under way. Amid the crackle of flames and din of sirens, his cell phone rang. The caller ID displayed his home number. His wife’s first words were, “Jesse, Chris is missing.” “Who?” “Your nephew, Chris. He went to The Station last night and they can’t find him. Can you?” Given the stench of death around him, Owens must have thought, “I certainly don’t want to find him here.”

The fire marshal was hardly alone in looking for family. Because video of the fire had been broadcast almost immediately, distraught relatives of Station patrons flocked to the scene when their cell phone calls to loved ones went unanswered. Over the next several days, they would go from hospital to hospital in Providence, Boston, and Worcester, clutching photos for doctors to match to horrifically burned faces. And with each “not here,” the families’ options would shrink.

Even though reporters were kept at a distance from the burnt-out rubble, TV crews had something of an advantage. Television “live” trucks often sport video cameras on their telescoping communication masts, from which their crews can peer down upon “restricted access” scenes. Reporters like CNN’s Casey watched on their monitors as blue-gloved fire investigators combed through what looked, at a distance, like indistinguishable ashes. Had she been allowed closer (or if her truck’s mast camera had a higher resolution) she would have seen those techs bagging and labeling victims’ personal effects and body parts. A glove containing hand bones. A section of scalp, with hair attached. And, over by what remained of the stage, several charred cardboard tubes for pyrotechnic “gerbs” — a kind of heavy-duty sparkler — as well as a homemade stand for positioning them. These were the first of many discoveries that would begin to answer questions in the minds of everyone from Providence to Portugal who had seen the initial video: Why did the fire spread so fast? What was flammable packing foam doing on the walls of a nightclub? How could any thinking person ignite giant sparklers in that firetrap?

Throughout the night of the fire and into the next day, the news media reported body counts like a ghoulish sports score. First thirty-nine, “with fears of many more.” Then fifty, “and climbing.” By 11 a.m., the removal of body bags from what remained of The Station had ceased, with the “final” calculus an astounding ninety-five.

That afternoon, Fire Marshal Owens’s cell phone roused him from his overwhelming fatigue. It was his wife, telling him they’d found his nephew — at Rhode Island Hospital — burned, but alive.

But many more remained missing. Shortly after the video aired, the region’s hospitals began filling with relatives looking for their loved ones. There, smoke-stained survivors attempted to comfort them with information about where a son or daughter was last seen within the club. Other injured Station patrons chose to leave

hospitals, untreated, in deference to the more seriously burned in need of urgent care. That night, Kent County Memorial Hospital, closest to the fire site, went through a three-month supply of morphine.

Yet more friends and family members were drawn to the still-smoking remains of the club, where they stood, hugging and weeping. One was Jackie Bernard, forty years old, who stared at the smoldering rubble and cried softly. She had been inside the club with her close friend and co-worker Tina Ayer when fire broke out. Both worked as housekeepers at the Fairfield Inn, where Great White was staying. Tina was still missing.

No one among those gathered at the site took any particular notice of one fireman lingering in the footprint of the burned-out club. "Rocky" was a familiar figure at fire scenes; as the town's fire marshal, part of his job was investigating the cause and origin of fires there. As the fire marshal's turn-out boots crunched in the ruins, he must have had the appalling realization that the ground beneath him was intermixed with what funeral directors euphemistically call "cremains." And only he could have known that he was, perhaps, the single person most responsible for this tragedy.

When the claw-armed excavating machine lifted the remaining section of collapsed roof from the club, another grim discovery was made.

The count was now ninety-six.

CHAPTER 2

MILL TOWN WATERING HOLE

IF WEST WARWICK, RHODE ISLAND, WERE A CAR, it would be a 1957 Studebaker — functional in its day, but now well past its prime. It has the look and feel of a place that time, and certainly prosperity, have long since passed by.

Driving through the town today, one can catch glimpses of its industrial past. Hulking textile mills, some boarded up, some converted to “luxury condos,” line the Pawtuxet River’s banks. Mill workers’ duplexes still squat in the river’s floodplain, while owners’ mansions, many now decrepit, occupy the high ground. Mac’s Bowlaway Lanes, its paint peeling, sits cheek-by-jowl with Louise’s Liquors. A red J. J. Newberry storefront harks back to its halcyon days as a sponsor of TV’s *Romper Room*, while the Portuguese Holy Ghost Society and St. Anthony’s Church remind visitors that Masses are still said in languages other than English or Latin.

West Warwick homes are, for the most part, pre–World War II vintage, often multifamily, and set impossibly close to one another. Vinyl siding over rotted wood is the dominant aesthetic. Which is not to say that pride in ownership does not occasionally shine through. Carefully tended window boxes grace otherwise bleak tenements. Manicured postage-stamp lawns hold their own against incursion by overgrown neighboring plots. In short, the town has seen much better days, but its close-knit, often blood-related residents refuse to give up on it. Which is one reason why tragedy hit so close, and so hard, that winter of 2003.

West Warwick may lie at the geographic center of America’s smallest state, but by 2003 it was as far from the state’s economic and cultural mainstream as could be. It had not always been so. Indeed, the town’s very existence was an ironic testament to greedy calculation.

With straight borders to its north, west, and south and a tortured, winding border to the east, the town appears to have been forcibly wrested from its easterly neighbor, Warwick — which is exactly what happened. While political subdivisions often use waterways as natural borders, West Warwick clings jealously to *both* banks of the Pawtuxet as that river makes its way east to Narragansett Bay. And that was the beauty of Patrick Quinn’s 1913 plan.

By the early 1900s, Warwick’s Pawtuxet River Valley was the state’s most industrialized and politically powerful region. Generations of immigrants had settled

in ethnic enclaves bearing names like Arctic, Crompton, and Riverpoint. French Canadians, Irish, Poles, and Portuguese huddled among their own in neighborhoods often named for the area's mill owners, such as Lippitt, Clyde, or Harris. While Patrick Quinn's "come-over" Irish parents had labored in the mills, he would rise above those humble beginnings to become a lawyer and politician of influence, riding the tide of political change that transformed Rhode Island from a WASP-dominated Republican state to the ethnic Democratic one-party city-state it remains to this day.

Quinn's plan was to split West Warwick from Warwick so as to seize both banks of the Pawtuxet — and its golden-goose textile mills — from the largely Republican eastern area of the city. It worked like a charm. As its first town council president, Quinn promptly appointed his nephew and law partner as city solicitor. Together they would dominate the affairs of the newly incorporated municipality for decades.

Quinn's creation remained prosperous through the 1940s and into the '50s. Fruit of the Loom products made in West Warwick stocked America's underwear drawers. Weekdays, often in three shifts, a League of Nations labored in the mills. On weekends, its ambassadors would spend their overtime checks in Arctic's bustling retail center.

Then came the late '50s and '60s. One by one, the mills shut down, heading south for cheaper labor, while new shopping centers sprang up in neighboring Warwick. In 1958, when Interstate Highway 95 was completed through Warwick proper, there was simply no reason for anyone to drive to Arctic to shop — or to visit West Warwick at all. By 2003, eastern Warwick had become the retail hub of Rhode Island and site of the state's newly modernized airport, its tax base almost five times that of its western spin-off. Quinn's dream of an independently prosperous West Warwick effectively died with him in 1956.

Recent unsuccessful attempts to revitalize West Warwick have ranged from the desperate to the comical. First, there was the proposal to create a tax-free shopping zone (dead on arrival in the legislature). Then, casting envious glances at one of the world's largest casinos, in nearby Ledyard, Connecticut, West Warwick pols teamed with Harrah's to develop a Narragansett Indian casino (defeated in multiple referenda). Most recently, plans for a "destination-resort indoor water park" were floated. (Progress on that slowed appreciably in the state legislature when rumors swirled that it was really an FBI sting operation, thereby seriously impairing its graft potential.)

With economic downturns often come fire and arson, and West Warwick was not spared their ravages. From the destruction of the Roger Williams mill in 1821 to the Crompton Mills fire in 1992, the town saw one spectacular blaze after another. In fact, following one such fire, a West Warwick neighborhood was renamed Phenix, after the mythological bird that rose from the ashes.

A mill fire is a sight to behold. With foot-thick timbers and floors marinated in

decades of machine oil, old textile mills burn with ferocious intensity, producing inky smoke visible for miles. Many such West Warwick fires had human help. In the 1990s a string of twenty unsolved arson fires plagued the town, creating a persistent feeling of unease among its residents.

In a place the size of West Warwick, there's a fine line between business-as-usual among old friends, and outright corruption. When members of the same family populate multiple municipal departments, opportunities for self-dealing and nepotism abound. A town councilman sought to negotiate contracts with the police union — of which his son was a member. A school committee member pressured a principal to hire his son as a teacher. A departing mayor illegally paid himself \$15,000 in “sick time and vacation pay.” Few townsfolk were shocked.

Nor has its fire department been immune from West Warwick's brand of opportunism. In 1977, a firefighter in the department helped his diner-owning cousin dynamite a competing Warwick restaurant. The next year, two town councilmen running for reelection promised a forty-one-year-old campaign worker a firefighter's job, even though town policy barred hiring recruits over age twenty-eight. In 1980, a battalion chief was convicted of arson conspiracy for delaying the department's response to a “successful” fire at a friend's warehouse. Later, in 1996, an obese firefighter sought retirement on a disability pension when he could no longer fit into his boots. This, in a fire department of sixty-five employees. It takes a lot to raise eyebrows here.

In February of 2003 there sat in the southeast corner of West Warwick, at 211 Cowesett Avenue, a small roadhouse that had seen many different incarnations over the decades. During World War II it had been the Wheel, a navy bar catering to rowdy sailors from Quonset Point. Later, it was reborn as the Red Fox, the Cedar Acres Inn, and Tammany Hall (reportedly, bullet holes in the beer cooler attested to its rough-and-tumble crowd). The wood-frame building was modified from year to year and from owner to owner, often with materials of dubious quality and origin. A suspicious fire scarred its interior in 1971, but despite fuel containers later found in the dining area, no arrests were made.

Raymond Villanova bought the building in 1974 and operated one of three “P. Brillo and Sons” Italian restaurants there until 1982, peddling “spaghetti by the pound” to Rhode Islanders hungry for bargain eats. The success of “Papa Brillo's” was to be the building's “highest and best use,” in real estate parlance. All subsequent tenancies were short-lived, alcohol-based, and downscale by comparison.

By the mid-'80s Villanova, his reputation as an aggressive businessman well established, found commercial real estate development to be more profitable and less

demanding than his restaurants. The dingy single-level building at 211 Cowesett Avenue became just one of his many holdings, rented to a succession of hapless entrepreneurs willing to sign onerous “as-is” leases under which Villanova had no obligation whatsoever to maintain or repair the building. Developer Villanova’s management of the property on Cowesett Avenue consisted primarily of collecting overdue rents and seeking property tax reductions for the deteriorating property. If he ever visited the building after 1995, his Rolls-Royce would hardly have blended in.

The dubious allure of operating a marginal bar attracted a parade of renters who changed the club’s name, made low-budget renovations, and more often than not ended up begging off their lease with Villanova and selling their “business” to the next, and greater, entrepreneurial fool. After Brillo’s came, variously, Glenn’s Pub, then CrackerJack’s, then the Filling Station. In late 1995, Howard Julian rose to the challenge.

Julian liked rock music. A guitar player of sorts, he found the prospect of rubbing (and bending) elbows with musicians too attractive to pass up. So he bought the restaurant-turned-pub-turned-rock-club from Skip Shogren, signing an “as-is” lease with Villanova’s realty company. The “Filling Station” name combined an automotive theme with, perhaps, a wishful allusion to anticipated drink sales. From its prior owner Julian inherited not only the club’s name but also a clientele, several employees, and its manager, Tim Arnold. He was also heir to the building’s prior brushes with fire. A tradesman changing a lightbulb for Julian once reached into the ceiling space. “All the rafters were charcoaled,” he said. “I put my hand on it, it was black.”

Another thing that Julian’s club shared with its predecessor on the site was the animosity of its neighbors. The area of Cowesett Avenue and Kulas Road in West Warwick was, to put it most charitably, mixed use. (Comprehensive zoning was never the town’s strong suit.) Across Cowesett Avenue from the Filling Station was a restaurant, the Cowesett Inn. Across Kulas Road from the club, an auto dealership. To the club’s west lay a wooded lot. To its immediate south, less than a hundred feet from the club itself, the property of one Barry Warner marked the beginning of a residential plat. Over the years, as tastes in musical volume came to surpass fans’ pain thresholds, it was inevitable that neighbors would complain about the noise. And Warner frequently led the charge.

Each time successive owners sought transfer of liquor and entertainment licenses at the site, Warner and others would complain to the town council of overcrowding, parking lot disturbances, and, invariably, the loud, bass-pounding music. And each would-be impresario, including Julian, would promise the council new measures to fight the noise: performing volume checks; keeping the door nearest Warner’s house tightly shut; installing noise-dampening materials.

One application of soundproofing material occurred in the early summer of 1996.

The Filling Station's manager, Tim Arnold, observed Julian screwing white plastic foam blocks to the walls of the drummer's alcove at the center of the stage. They were seventeen-inch-square, two-inch-thick blocks of stiff foam, each the consistency of "swimming pool noodles." Julian applied 192 square feet of the stuff to the alcove's three walls. It is unclear where he obtained this plastic foam; however, this was not the last time that materials of questionable quality would compromise the building at 211 Cowesett Avenue.

Notwithstanding Julian's parsimony, his club formula was still a bust. By late 1999, he was resorting to gimmicks like karaoke, mud wrestling, and male stripper nights to stay afloat. A video shot at the club (which by then had been renamed, simply, The Station) captured Julian onstage with the featured act, engrossed in fish-faced guitar noodling. Heady as such moments must have been for him, they did not pay the rent. Almost four years into his venture, Julian still owed purchase money to prior owner Skip Shogren. In arrears to his landlord by over \$40,000 in February 2000, Julian, like so many before him, sought a buyer for his failing business. He implored his landlord not to tip any prospective buyer to the fact that months of unpaid back rent (as well as the balance of his debt to Shogren) would be escrowed from any purchase closing. "I firmly believe that if the amount of rent in rears [sic] is disclosed, the potential buyer will be scared away," wrote Julian to Villanova.

One potential purchaser, Al Prudhomme, played drums with a local band, Fathead, and was a regular at the club. He dearly wanted to buy it from Julian, but his wife, Charlene, "just wouldn't go for it." He would one day thank her.

Julian's potential salvation arrived in December 1999, in the persons of two thirtyish brothers, Michael and Jeffrey Derderian. Native Rhode Islanders, the Derderians were, respectively, a businessman and a reporter for a Boston TV station. They hardly blended with The Station's blue-collar clientele (one of the bar's denizens later described them as sporting "Wally Cleaver haircuts"); however, they were sufficiently bitten by the club-owner bug as to seriously consider buying Julian's business.

It could not have been the ramshackle building that attracted the Derderians. And, yet, standing inside facing west toward the stage, the brothers must have entertained grand visions for the dingy space. The stage itself was a platform, approximately two feet higher than the dance floor area. Another six inches above that sat the drummer's alcove, a bump-out on the club's exterior wall. To the right of the stage was the only door on the building's west or south sides. This "stage door" was used to load band gear in and out. It was actually two doors hung back to back. The first hinged inward and bore a sign, Keep Door Closed at All Times. Immediately behind it was another door, hinged outward. This double-thickness door was on the side closest to the house of that vocal neighbor, Barry Warner. It would certainly appear to be sound-deadening.

To the far right of the stage was the club's pool table area. Its north wall was not really a wall, but an "atrium" (not open to the outside, as in a true atrium) with curved Plexiglas windows of '70s fern-bar style arching from roof to floor. Unbreakable save for three low glass panels, that tough Plexiglas would never need replacement by the new owners.

Walking east through Julian's club, the Derderian brothers had to pass the narrow hallway leading to the men's and ladies' rooms. Windowless (and sometimes doorless, in the case of the men's room), they were dead ends off a dead-end corridor. There had been an exit door in that corridor sometime in the past, as evidenced by concrete steps outside; however, it had long since been walled over.

Further along their tour, the southeast corner of the building housed a little-used game room, business office, and storage area — with walled-over windows and no exterior doors. Probably good for security. Separating this quadrant from the main bar area was a small kitchen, its outside door hidden from public view.

The club's main bar area consisted of a large horseshoe-shaped bar and several small stand-up tables. Occupying the very farthest end of the club from the stage, this room had its own exit door and several single and double windows. Like the game room, its walls were lined with framed photos of second- and third-rate bands that had appeared at the venue.

As the two prospective purchasers exited the club on their tour, they passed through the ticket-sale area of the front entrance. Jutting diagonally into the entrance corridor, the ticket desk left a narrow thirty-three-inch path through which the brothers took turns passing. If they were worried about patrons sneaking in without paying, this pinch point had to allay any such fears. A single interior door eight feet farther down the main entrance corridor probably slowed entering patrons, as well. They'd have to pay to play at the Derderians' club.

As the brothers exited through the front corridor and double doors of The Station, they probably didn't notice the downward-sloping pitch of the tile floor beneath their feet. It was really not any cause for concern. Especially if no one behind them was in a hurry to leave.

CHAPTER 3

ROCK IMPRESARIOS

“IT’S A PLACE WHERE GOOD BANDS GO TO DIE,” quipped Steven Scarpetti years before the fire. Scarpetti, a promotions executive at radio station WHJY, was referring to The Station’s prestige among third-rate concert venues, but he could as well have been talking about the club’s potential for actual tragedy.

When the Derderian brothers bought The Station from Howard Julian in March of 2000, they knew little about operating a rock club. But they would soon learn on the job that cutting corners on payroll, stuffing patrons into the club, and stiffing local bands were all part of the economic equation for small-time promoters.

The closing date for their purchase from Julian was to be March 22, 2000; however, several acts were already booked to appear that month. The first such gig would be W.A.S.P., an ’80s heavy-metal band famous for its raunchy lyrics and violent themes. It was anticipated that the W.A.S.P. performance on March 8, 2000, would be “run on the Derderians’ license” with all proceeds going to Julian, and all expenses for the performance borne by Julian. This would be a dry run, of sorts, for the new owners. Jeff Derderian worked with W.A.S.P.’s road manager to prepare for the show.

The lead singer for W.A.S.P., who calls himself Blackie Lawless (born: Steven Edward Duren), embodies heavy-metal shock-schlock. Lawless’s stagecraft with a previous group, Sister, included lighting his boots on fire and eating live worms. With W.A.S.P., he graduated to throwing raw meat into the audience and positioning girls on torture racks. (It’s a safe bet that the band’s debut single from 1982, “Animal (Fuck Like A Beast),” never made it onto Tipper Gore’s iPod.) “Blackie,” in studded, cut-out leathers, would posture onstage sporting raven-dyed shoulder-length hair and heavy eyeliner, sometimes mounting a demonic-looking metal sculpture that doubled as a microphone stand.

W.A.S.P.’s road manager in the spring of 2000 was Dan Biechele, who would later manage Great White’s 2003 tour. In addition to handling all business with each venue, Biechele set up and operated pyrotechnics for W.A.S.P.’s show, the highlight of which was an electrically triggered sparkler known as a “gerb,” attached to Lawless’s codpiece. At the show’s climax, Biechele flipped a switch, causing Lawless’s crotch to erupt, showering pyrotechnic sparks over The Station’s stage and front-row patrons.

If it had not dawned on the Derderians earlier, they had to realize at that seminal moment that they were not purchasing a cultural mecca.

The Derderian brothers bore such physical similarity to each other that some patrons of The Station claimed not to be able to tell them apart. Both were short, with hair and clothes running more to L. L. Bean than Harley-Davidson, the preferred logo of their club's clientele. Less similar, however, were their respective balance sheets. According to their accountant's statements at the time of the Derderians' club purchase, Jeff Derderian had a net worth of only \$199,000, while his older brother, Mike, was doing much better at \$1.39 million. Together, they agreed to pay Howard Julian \$130,000 for his club (\$60,000 in a note held by Julian) and signed an "as-is" lease with Raymond Villanova's realty company to rent the Station building for \$3,500 a month.

Jeff's day job was reporting for WHDH, a Boston TV station. Having cut his journalistic teeth as news director for Rhode Island College's radio station in the 1980s, the younger Derderian advanced to working on-camera for WLNE Channel 6 in Providence, where he appeared on "You Paid for It," a recurring feature dedicated to uncovering wasteful public spending. Jeff's regular appearances on WLNE made him "world famous in Rhode Island," as they say. He later moved to WHDH in Boston, where, as is common in the industry, he simply read on-air stories written for him by the station's producers.

One of Jeff Derderian's stories for WHDH was a piece entitled "In Case of Emergency." It opened with the reporter lying on a bed in a "smoke-filled room," and featured him crawling along the floor to safety as he instructed viewers how to escape a building fire: "You won't be able to breathe; you won't be able to see; you may go unconscious. That's why firefighters say it's so important to go down low, where the air is." Later in the segment, Derderian donned full firefighter's gear with breathing apparatus and stood, eerily backlit like an astronaut, in the midst of a room fire at the Massachusetts Firefighting Academy. He closed out his dramatic narration with a punchy admonition about smoke detectors: "They're cheap. Buy them. Install them. They work. We're live in North Quincy tonight. I'm Jeff Derderian, 7 News Night Team."

Older brother Mike was more of a highflier. He had sold insurance and then investments. Mike even owned and leased out a Cessna 172 airplane. The outward picture of success, Michael Derderian owned a twenty-six-foot powerboat, homes in Saunderstown and Narragansett, Rhode Island (both a far cry from West Warwick), and drove a BMW. One birthday, he gave his wife a Mercedes. He and his brother were far less generous, however, in their business dealings.

The heartbeat of a rock club is its sound system. When Howard Julian ran the club, its sound system was part-owned, and sometimes operated, by Dan Gauvin, who had previously run sound for Julian's band. Gauvin charged Julian a rental fee for the system, and a "mixing fee" for the vital function of running the sound board. When

the Derderians took over, they immediately clashed with Gauvin. The dispute resulted in Gauvin's removing his equipment from The Station and never again working as its sound man. His departure was punctuated by a caustic note written to the Derderians on the back of a final invoice. It was a measure of the brothers' hubris that they framed the diatribe for their office wall. Amazingly, it survived the fire completely unscathed. Uncovered from The Station's ashes, it read:

Dear Mike,

I wish you all the luck with the club. When we had our meeting you said to me, "We want the same deal as Howard.["] I said I couldn't do that and you said, "When can you have the system out?["] That's when you pissed me off. Then you shorted me \$55. . . . As you said, you know very little about this biz — I agree. It shows. Good luck. As you said, you know very little about this biz . . .

Dan

After the falling-out with Gauvin, the Derderians bought some sound equipment and hired Paul Vanner to operate the sound board. Vanner worked several nights each week. But the brothers paid him weekly by check for only one night's work; the rest was in cash. As to why *any* of it was paid by check, they told Vanner, with no apparent irony, "If anything happens to you, you'll be covered by workers' compensation."

The Derderians were tightfisted with all their employees. John Arpin, a bouncer, recalls being paid \$50 in cash "only if there were at least seventy people in the club." If there were fewer, he got a bar tab of up to \$27, "but no cash." This was for duties that sometimes included cooking in the club's meager kitchen — a comforting thought for diners.

Arpin also worked for the Derderians at a nearby gas station, which they had recently purchased. His co-worker, Troy Costa, worked for the gas station's prior owner, but lasted just two weeks after the brothers took over. Costa "didn't like that they paid him cash under the table." He asked, "How about TDI?" — referring to state-mandated temporary disability insurance. "What if I get hurt?"

Michael Derderian replied, "You'll be all right."

After the brothers shorted his pay two weeks running, Costa quit.

The Derderians knew that, while they had to negotiate with national acts to appear at The Station, local bands could be used — and abused — on the cheap. Musicians' recollections of their gigs at The Station strike a consistent chord.

Thomas Walason, of the bands Rock Show and Catch-22, played at The Station "nine or ten times." (Walason's girlfriend, Kathleen Sullivan, would escape the ill-fated Great White concert in 2003 with serious burns.) As he later told the police, "Jeff usually shorted us."

Geoffrey Read, a volunteer firefighter who would help fight the Station fire, managed a local band called What Matters. The last time Read's band played at The Station, Jeff Derderian refused to pay him half the agreed price, claiming it was "a slow night."

Justin Pomfret, who escaped from the fire with his wife, played with another local band, the Hype. He was shorted \$100 “by one of the brothers” when his band played The Station.

Paul Dean, a carpet installer by day and musician by night, echoed the refrain that “Jeff Derderian shorted me \$100 on our agreed-upon price.”

Even if a musician had other business relations with the club, he was equally likely to get stiffed by the Derderians. Richard Antonelli, who designed the club’s website, thestationrocks.com, appeared several times at The Station with his band, Sky High. They played the night of September 28, 2002, for their usual \$200, which just about covered expenses. When Antonelli saw Mike Derderian in his office for payment at the end of the night, the club owner asked, “What are we gonna do about tonight?”

Antonelli was perplexed.

Derderian spelled it out: “About the money.”

“I guess the usual two hundred,” shrugged Antonelli.

“Two hundred? You want me to pay you two hundred dollars for 100 people in here?” sputtered Derderian.

“Yeah, that’s the agreement we had,” said Antonelli.

Derderian continued, “We don’t pay bands \$200 to bring in 100 people.”

Dumbfounded, Antonelli said, “I don’t know what to tell you. That was our agreement.”

Then Derderian put it to him. “All right. Are you sure you want to do this? If you take this money, that’s it. You guys are done here. No more shows. Nothing.”

Antonelli took the \$200, then went outside to talk to his band. After a short conversation, his drummer walked back inside, handed Derderian back the \$200, and told him Sky High would not appear there again.

The Derderians’ business reputation became known to booking agents, as well. According to Richard Carr, who booked bands at The Station with prior owners Skip Shogren and Howard Julian, the brothers initially said they’d “honor the same deal Howard gave him,” then reneged. “Word quickly spread that the Derderians’ word meant nothing,” he said.

In the fall of 2002, Jeff Derderian hired nineteen-year-old Anthony Baldino to paint a rock-themed mural across the club’s façade. (Typical of Rhode Island’s interconnectedness, Anthony’s father’s girlfriend was the sister of Jeff Derderian’s wife.) At an agreed rate of \$10 per hour, Baldino spent seventy-two hours painting likenesses of Elvis Presley, Janis Joplin, Steven Tyler, Jimi Hendrix, and Ozzy Osbourne on the club’s street-side wall. When it came time to pay for the work, Jeff Derderian gave Baldino only \$600, claiming he wasn’t satisfied with it. However, Derderian dangled “the possibility of more mural work inside the club.” Baldino, incredulous, declined.

Not that the Derderians didn’t give aesthetics a high priority at The Station. Lewis

Cook had the unenviable task of cleaning the club after each show. He recounts having to clear the floor of cups, bottles, and other detritus *with a snow shovel* before more conventional cleaning means could be employed. When the cheaply constructed men's room door got punched through enough times (eventually creating a hole large enough to step through), the Derderians simply left it off.

If the brothers were to succeed as rock impresarios, they would have to book national acts. Negotiating with "name" bands involved a set of skills entirely different from simply stiffing the locals. Touring bands were booked months in advance, and their contracts commonly called for a minimum fee, paid half in advance, with the balance paid on the day of the band's appearance; this, plus a percentage of the "gate." Accordingly, the club's capacity would be an important factor in attracting acts.

Howard Julian routinely told bands that The Station's capacity was more than its then-permitted 317 in order to get them to sign contracts. He probably figured they'd discover the deception once they saw the club, so prior to the March 2000 W.A.S.P. concert, Julian faxed Jay Frey, W.A.S.P.'s booking agent, with the terse message, "CAPACITY DOWNGRADED TO 350. New Fire Marshal (Asshole Maximus!)" Of course, there had been no downgrade. And no new fire marshal.

The Derderians caught on to the capacity game quickly. Even though the club's legal occupancy under their ownership could not exceed 404 (with all tables removed), the 2003 Talent Buyers' Directory, a music industry guidebook used by agents to book acts, listed The Station's capacity as 550. The guide, which relies upon owners for their clubs' capacity information, listed Michael Derderian as the "owner and booking contact."

The brothers' contracts with national acts similarly overstated the potential gate. Great White's contract for an April 2000 appearance at The Station represented a capacity of 500; Warrant's, for later that month, the same. A contract for Poundhound in May 2001 stated that 550 patrons could fill the club; the agreement for Anthrax to appear that October also read 550. Eddie Money and the Dead Kennedys were each promised a club with room for 550 when they played The Station in 2002. So was Quiet Riot.

Apparently, the Derderians were no more candid with their patrons about permitted capacity. At 6 o'clock on the evening of Great White's final appearance at The Station, Frank Canillas called the club to see if there were still tickets available. He was told that there would be 100 business cards (used as tickets) available for purchase at the door, that the last show there had drawn 480 fans, and that the club "fit about 600 people." He would later recount this to the police from beneath bandages in his hospital bed.

Barry Warner's house was the closest neighboring structure to The Station's stage

door. About one hundred feet distant and up a small rise, the house was separated from the club property by a thin stand of trees. On concert nights the bass speakers at the club would sometimes rattle pictures on Warner's walls.

Warner or his wife called police with noise complaints numerous times when Skip Shogren owned the club. When Howard Julian operated it as the Filling Station, the Warners continued their crusade in letters to the town council. By the time Julian sought to transfer the club's liquor and entertainment licenses to the Derderians, the Warners had had enough and vocally opposed the transfer unless something was done about the noise, parking lot fights, and overcrowding.

Transfer of a liquor or entertainment license in West Warwick requires sign-offs by the building inspector, the fire chief, and the police chief. In 2000 the police chief was Peter Brousseau. He spoke with Mike Derderian in May of that year, "strongly advising him that his entertainment license would not be approved unless he corrected the noise problems." "He is going to speak to the neighbors to work on issues," wrote Chief Brousseau in a memo dated May 12.

On a quiet afternoon that same month, Barry Warner and his son, Matthew, were sitting on their back porch when two clean-cut young men rounded a corner of the house and introduced themselves. They were Jeff and Mike Derderian. They'd just bought The Station, you see, and they wanted to assure Warner that they would be "good neighbors." Warner listened as they explained how they "were very proactive" and wanted to do a good job running the club. At one point, the brothers offered to buy him an air conditioner so that he could keep his windows closed, and the noise out, on summer nights. Warner passed on that. Then the Derderians gave Warner their personal phone numbers and stressed that if noise were ever a problem, he should call them directly, rather than the police.

The Derderians' awkward social call on Barry Warner was drawing to an uncertain close when Warner spoke up. "One option might be to use polyurethane foam for sound insulation in the club." It appeared that he had caught their attention. Warner continued. "I work for American Foam. . . . I know that people purchase foam for sound deadening. There's different qualities of foam you can use." The brothers asked Warner if he could bring them some samples; then, sensing that they had stumbled upon a relatively easy solution to a difficult problem, they took their leave.

Back at the club, Mike Derderian spoke with manager Tim Arnold about the Warner meeting. "Well, I'm going to buy some soundproofing from this guy because it'll kill two birds with one stone. He'll be happy we bought it from him to stop the noise and probably put some money in his pocket," Derderian explained.

Later that week, Patricia Byrnes, an entertainment booking agent, stood with Jeff Derderian and Paul Vanner before the stage at The Station while her band client "loaded in." She noticed several colored twelve-by-twelve-inch squares of foam laid out on the stage floor and a man explaining the differences between each. Byrnes

pointed to one of the samples and kidded Derderian, “You can’t put peach foam up in a rock club. That’s a decorating faux pas.” They all laughed. There was no discussion of fire-retardant foam being an option.

After the foam salesman left, Byrnes told Derderian that she used special fireproof carpet for sound insulation in her home studio, and offered to show him a piece of it that she had in her van. Derderian demurred, saying, “No, no. I’ve got to get it from this, you know, this guy because the neighbors are complaining.”

Warner thereafter created an American Foam quotation sheet for “25 blocks” (fifty three-foot by seven-foot sheets) of polyurethane “sound foam” to be sold to The Station. Price: \$580. He would later admit that this was “the cheap stuff — the ‘Ford Taurus’ of foam.” According to Warner’s secretary at American Foam, Desiree Labrie, it was not a common practice by anyone at the company to advise a buyer of a fire- or flame-retardant option.

Around the same time, Todd Bryant of B&G Gutters Inc. was asked by Michael Derderian to prepare a quote for installing sound insulation at The Station. Bryant had previously done work for both Derderian brothers at their homes, so he agreed to meet Jeff at the club to scope out the work. On May 18, 2000, he provided a written quote to “Mike Derian [*sic*], 211 Cowesett Avenue, West Warwick, R.I.” for the installation of fire-retardant blown-in cellulose insulation in the main ceiling and roof slopes of the club, along with fiberglass insulation in a knee wall. Bryant’s price was \$1,980. He never heard from the Derderians again.

On June 9, 2000, Mike Derderian wrote to Barry Warner at American Foam: “Please accept our order for 25 blocks of sound foam.”

Three weeks later, a truck bearing the markings of American Foam Corporation pulled up outside The Station. As its driver loaded over one thousand square feet of corrugated foam sheets into The Station, he might have wondered why a rock club needed so much cheap packing foam.

Over the following week, club manager Tim Arnold glued sheets of the charcoal gray, corrugated “egg-crate” polyurethane foam over the walls and ceiling of the entire west end of The Station using 3M Super 77 spray adhesive. He covered the south wall, too, above the wainscoting, all the way to the corridor leading to the men’s and ladies’ rooms. Arnold lined the sloped ceiling over the dance floor on the south roof pitch with the gray material, as well as the unusual double-thickness door that served as the band’s load-in door on the end nearest Warner’s house. He even glued the gray polyurethane foam directly on top of the stiff, seventeen-inch-square blocks of two-inch-thick white foam (later spray-painted black) that Howard Julian had screwed onto the three walls of the drummer’s alcove back in 1996. Surely this would deaden the sound and silence Warner’s complaints.

Neither Jeff nor Mike Derderian quit his day job to run The Station. Jeff continued reporting for WHDH in Boston. Less than a year after he and his brother lined the

club's walls with polyurethane foam, he appeared on-camera in a story on the fire hazards of foam mattresses. Shot in the apartment of one of the TV station's producers, the story was one of several Jeff recorded that day.

Jeff Derderian was known at WHDH as "talent" who could arrive on-site, glance at his producer-written story line, and do a stand-up with minimal preparation. He would ad lib and "punch his words for dramatic emphasis," according to producer Michael Boudo. On the afternoon of the mattress fire shoot, he was definitely on his game, hitting his marks in a single take. "Another problem is what's inside the mattress: polyurethane foam," Derderian gravely intoned. "Fire safety experts call it 'solid gasoline.' It can cause a smoldering mattress to burst into flames." Then, he unclipped his microphone and left for his 4 p.m. assignment.

CHAPTER 4

ONLY ROCK 'N' ROLL

FOR MOST, THE TERM “HARDSCRABBLE LIFE” conjures up images of dustbowl Oklahoma, or Appalachia. People tend not to think of America’s smallest state, with its hundred-plus miles of lush coastline, as Steinbeck country, where life is hard, and fun times, few.

But Rhode Island of the twenty-first century is not the Gilded Age mansions of Newport. Neither is it those Industrial Age monuments to middle-class prosperity, the textile mills. Instead, Little Rhody is a state that, for many, is a land of modest educational and employment opportunities. For a goodly number of its inhabitants, life in the Ocean State means hard work and conservative aspirations.

Home for many Rhode Island thirty-somethings is an unassuming rental, or even a bedroom in the parents’ house. Work, if they can find it, tends to be of the kind that rewards longevity or political connections, rather than cutting-edge skills. Rhode Island’s total population has not changed materially over the last forty years, hovering right around one million. Most who are born here stay here, and rarely venture far from home.

Even fun, when the opportunity presents itself, is for the most part on a modest scale. Rhode Islanders don’t weekend in the Hamptons or jet to Aspen for the holidays. A summer day at Scarborough Beach, where oiled sunbathers bask in sea-lion proximity and serious neck jewelry is de rigueur (for guys *and* girls), might be the recreational high point of the year. And, in the depth of winter, it can get even bleaker. Cabin fever sets in around January, and by February, a night out in a rock club, where sound levels dull pain and body heat raises the temperature to summertime, can look pretty attractive.

Erin Pucino worked the 6 a.m. shift at the self-serve Shell station in Warwick that the Derderian brothers had purchased two months before they bought the Station nightclub. She had worked for the gas station’s previous owner, but shortly after the Derderians bought it, the brothers set her straight about finances. “Things are going to be different now,” instructed Michael Derderian. “From here on, instead of your regular paycheck, you’re going to get half your salary in a paycheck and the rest in cash.” “And, by the way, turn the outside lights off as soon as the sun comes up. And keep that damned electric heater low. It’s too expensive to run.”

Pucino, shivering in her drafty cashier's shack, thought, "You cheap bastards."

Erin was the single mother of a six-year-old boy, and she worked two jobs. With her red-streaked black hair, multiple facial piercings, and tattoos, Erin looked every bit the heavy-metal rock fan, but economic realities prevented her from actually following the bands she liked.

Working for the Derderians at their newly acquired gas station was a switch from working under its prior owner, Danny Saad, and Pucino found it to be a change for the worse. Saad had paid her by check with full contributions to such niceties as workers' compensation, unemployment insurance, and Social Security. The Derderian brothers' inveterate cheapness and penchant for under-the-table payroll were hardly outweighed by the occasional discount coupon she'd receive to see some national act play at The Station. But that was the deal. Work for peanuts, and sometimes she'd get comped into their club for a show.

Pucino put up with it for a couple of years, then finally had enough. She gave her notice in late January 2003, a few weeks before Great White was scheduled to play at The Station. But when another clerk was absent on that concert night, Erin reluctantly agreed to cover for him at the gas station — on the condition that she could leave in time to hear Great White's first song. Pressed for help that night, the Derderians agreed. At the time, Pucino thought she'd struck a pretty good deal. Her escape from life's tedium would be purchased with a few more hours of work tedium — for many Rhode Islanders, the coin of the realm.

Mike Iannone was not what could be called a regular at The Station. But he was a good friend of Steve Mancini, Keith Mancini, and Tom Conte — whose band, Fathead, regularly played there. Iannone hung out with his Fathead buddies and even helped them load their equipment into the club on occasion. He shared their excitement at opening for Great White, and planned to be there cheering them on.

Mike knew where he was going in life, and it was far beyond any dingy rock club. By 2003 Iannone was a senior education major at Rhode Island College. In just a few more months, he'd have his bachelor's degree and a teaching certificate for high school mathematics. He had purpose, drive, and a sense of what felt right in a given situation — and what didn't.

One night at The Station in 2002, while he was listening to a band called Rebellion, Iannone's sense of something being "not quite right" triggered quick action on his part. He was standing near the stage when two flashpots on either side of the band erupted in five-foot tongues of flame. Iannone "just didn't feel right" with the flame effects because the club "just seemed too small" for them, he later explained. So, he simply walked out of the club, unimpeded. Mike Iannone was, apparently, the only person at The Station who was troubled by Rebellion's pyrotechnics that evening.

Nightclub safety was the farthest thing from Gina Gauvin's mind in the winter of 2003. At forty-two, Gauvin, a single, stay-at home mom, had little time or money for "clubbing." But when she heard that Great White was going to appear at The Station on a Thursday night, Gina arranged for her son, Joseph, and daughter, Shayna, to stay with their grandparents, so that she could stop in at the club just before the band, one of her favorites, went on. Her eldest daughter, Heather, eighteen, would be on her own for the night. It would be a night out for Gina, whose life had always been light on luxury.

Gauvin wasn't often seen at The Station, but she was easily recognizable there by her flaming-red, down-the-back, wavy hair. She hoped to meet friends — perhaps Mike Gonsalves, the radio DJ who'd be emceeding the event, or others she'd known from growing up in Providence. Gina had married young, but neither that marriage, nor subsequent relationships, had survived. She stayed at home, making do on child support from her children's fathers.

Years earlier, Gauvin had rented a house in a rural corner of Rhode Island where she kept rabbits and geese. Over time, she developed a fondness for pet reptiles, and expertise in breeding them. Eventually, Gina became the go-to girl for online tips on nursing droopy dragons and lethargic lizards. She was also an art hobbyist, painting detailed, colorful portraits of her beloved pets. Kids and lizards and rock 'n' roll — not exactly the stuff of song lyrics, but the makings of a full life for Gina.

Unlike Gina Gauvin and Erin Pucino, others who found themselves at The Station for Great White's concert were not necessarily fans of the group. Thirty-three-year-old Pam Gruttadauria was normally not even a late-night person. As food buyer and breakfast supervisor for the Holiday Inn Express in Warwick, she began her mornings before 5 each day, so her evenings were not party friendly. Pam was single and lived with her parents and rottweiler-shepherd mix, JD, in Johnston, Rhode Island. When she wasn't earning one of several employee-of-the-month awards at the Holiday Inn, Pam mostly spent time with her brother's three kids. Trips to karate class and nights out for pizza with the niece and nephews filled what little spare time she had.

When Pam's co-worker at the Holiday Inn, Donna Mitchell, suggested that they go to The Station to hear Great White, Pam was ambivalent. Donna was a big fan of Great White, but Pam's musical tastes favored easy listening over heavy metal. And the show wouldn't start until 11 p.m. Still, Pam could take the following day off. She thought, "One late night really couldn't hurt."

So, on Thursday evening, February 20, 2003, Pam Gruttadauria left a note for her father that read, "Dad, don't wake me up. I have a personal day. Love, Pam."

Thirty-four-year-old Joe Kinan had even less interest in Great White than did Pam Gruttadauria. But he wasn't immune to midwinter boredom, either. Joe worked as a manager at a formal-wear shop in Canton, Massachusetts. An obsessive physical conditioning devotee, Kinan worked out seven days a week, often twice a day, with morning cardio and afternoon weight training by body part. He once competed in a contest to lose the greatest percentage of body fat and increase his muscle mass over twelve weeks.

Joe's buddy Karla Bagtaz had two tickets to Great White's show at The Station and wanted somebody — anybody — to go with her. In truth, Kinan couldn't have cared less about the band. He had never heard of them. But Joe and Karla had been friends for many years, and tagging along with her to a roadhouse to hear some '80s band would be small sacrifice. It might even be cheap fun on a bitter-cold Thursday night.

Three hundred miles north of Rhode Island, Bangor, Maine, was even colder. There, an over-the-hill heavy metal band was doing its best to give the locals their money's worth — melting the snow, as it were, with volume and special effects inside a small club called Russells. In forty-eight hours, it would be doing the same at The Station.

CHAPTER 5

THAT AIN'T NO WAY TO HAVE FUN, SON

TO THE RIGHT OF THE AISLE, immediately behind the driver, lay a table littered with empty soda cans, a cigarette pack, and CDs. To the left was a sitting area with cracked Naugahyde bench seats. Farther back, twelve bunks were stacked three high, six on either side of a narrow corridor — about as commodious as aboard a nuclear submarine. If groupies were ever invited “back to the bus,” they would have to be contortionists. This was the “luxury motorcoach” that Great White shared with its opening band, Trip, for their 2002–3 tour of little-known venues. Its occupants received \$25 per day for expenses, on which each was to live his own rock ‘n’ roll dream. The glamorous life, indeed.

It had not always been so.

Great White, originally called Dante Fox, was formed by singer Jack Russell and guitarist Mark Kendall in 1978. A self-described “backyard keg band,” the group drew a following in Southern California during the early ‘80s. Great White’s 1989 album, . . . *Twice Shy*, was the high-water mark of the band’s success. Certified double-platinum (two million copies sold), the group’s third album contained a Grammy Award–nominated (Best Hard Rock Performance) single, “Once Bitten, Twice Shy,” which would become Jack Russell’s anthem for the next twelve years. That song reached number five on the 1989 singles chart, and its video was an MTV staple — not bad for a “surfer stoner guy from Whittier, California,” as Russell later described himself.

The year 1990 saw Great White appear on *MTV Unplugged* and sell out the LA Forum; however, it was all downhill from there. Throughout the ‘90s the band’s popularity faded, along with that of most heavy-metal groups. One of Great White’s albums released in the 1990s, *Hooked* (1991) and one single, “Rollin’ Stoned” (1999), may have described Russell’s personal lifestyle, but they did not capture the public’s imagination or its pocketbook. Pressed for cash, Russell sold all his copyright interest in Great White recordings in 1996. In 1999, he sold the rights to any royalties from post-1996 CDs. In mid-2000, Mark Kendall and the two other original members left the group.

By New Year’s Eve 2001, Great White had completely lost its bite. The band briefly surfaced that night for one “farewell show” at the Galaxy Theatre in Santa Ana, California, then went belly-up, seemingly for good.

Lacking a broader skill set, Russell tried touring as a solo act, singing mostly “adult

contemporary” numbers with four session musicians; however, even with some Great White tunes thrown into the mix, audiences stayed home. His new solo album, *For You*, was, alas, not for many, selling 770 copies nationwide. Russell, forty-two years old and a decade past his MTV prime, had ridden his one-trick pony into the ground. By March 2002 he was hopelessly in arrears on lease payments for \$86,000 worth of sound equipment. In July of that year, Colonial Pacific Leasing Company obtained a judgment against him, seizing the last \$6,687.93 in his savings account and repossessing his mixing console.

When Russell filed for personal bankruptcy on August 21, 2002, he had less than \$20,000 in assets and over \$200,000 in debts. He owed money to the IRS, to a finance company, to a credit card company — even to his dentist (\$160). Nevertheless, his promotional bio still waxed optimistic: “All I want is for the people to decide. . . . There’s nothing worse than a song you believe in and no one hears it.” It’s doubtful that Russell’s creditors were whistling any of his tunes when his debts were discharged by the United States Bankruptcy Court for the Central District of California.

It is a music industry convention that unless an act has at least two of its original members, it may not tour under the original band’s name. Laws have been enacted in some states to ensure this. So, it was not surprising that Russell, once freed of his debt burden by personal bankruptcy, contacted Mark Kendall in 2002 and suggested that they tour with some of Russell’s session musicians from his short-lived solo act, calling themselves “Jack Russell’s Great White.” Kendall had been no more successful than Russell in garnering a solo following, and his day job as a newspaper telephone solicitor wasn’t cutting it. So he agreed to join Russell for a tour of marginal venues in late 2002 and 2003, riding a bus from city to city with another band, Trip, and a sound man, Bob Rager. The tour would be budget conscious, to say the least. It would be road managed by Dan Biechele, the same fellow who ran W.A.S.P.’s tour in 2000. Biechele would not only control costs, but he’d also operate the tour’s single extravagance, pyrotechnics.

Rock concerts featuring pyrotechnics first took hold in the 1970s with bands such as KISS. Heavy on makeup and stagecraft, metal bands of the KISS ilk safely fired pyrotechnics in stadium-size venues. The pyro usually consisted of “gerbs” and “flashpots,” electrically triggered effects that, respectively, showered a fountain of sparks or created an instantaneous vertical tongue of flame. Either could be synchronized with music, creating a flux of radiant heat intense enough to be felt by the audience. Sometimes “fire-breathing” by the performers was added to the mix. Unfortunately, lesser-known bands would follow suit in smaller, indoor settings — without the precautions taken by professionals, such as site planning and ample fire extinguishers.

When “Jack Russell’s Great White” set off on its ill-fated tour, it consisted of Jack

Russell on vocals, Mark Kendall on lead guitar, Ty Longley on rhythm guitar, David Filice on bass, and Eric Powers on drums. All but Russell were salaried session musicians sharing no part of the tour's profits. Powers was still owed over \$3,000 from Russell's abortive solo tour. The drummer agreed to come along if he were paid a little extra on top of his \$1,100 weekly salary to gradually pay him back.

Session musicians were definitely second-class citizens on this tour. Their contract with Jack Russell's Great White specified that as session musicians they were not part of Great White and could not represent themselves as such (presumably to keep them from pairing off and later touring as Great White themselves). They were also forbidden from consuming alcohol or nonprescription drugs, a particularly ironic proscription in light of Russell's admitted personal habits.

This tour of Jack Russell's Great White has been referred to by one rock historian as the "Fake White" period. Starting off in Honolulu, Hawaii, the band played three nights at a club called Gussie Lamour's. Word of mouth was either ineffective, or very effective, because each night's audience was smaller than the one previous.

At 9:43 on the morning of January 20, 2003, the rear doorbell rang at Shark City, a sports bar in Glendale Heights, Illinois, where Great White would next appear. Club owner Karen Hruska opened the door and signed for FedEx delivery of a single box, about two feet by three feet in size, addressed, "Hold for Dan Biechele, Great White, c/o Shark City." On its side was an orange label: DANGER — EXPLOSIVES.

Shark City's night manager, Terry Barr, had handled the advance for Great White's show and, in an earlier conversation with Biechele, had rejected pyrotechnics, explaining that a permit would have to be obtained. When the ominously labeled package showed up at Shark City, Barr phoned Biechele, who again urged pyro for the show. When Barr stood fast, Biechele offered no argument. Upon arriving at the club, he stowed the box in the band's bus for future use.

The tour moved on to Hewitt, Minnesota, where Great White appeared at a club called Checkers. Biechele set up his pyro there on a homemade stand consisting of a board with broom clips to hold the tubular cardboard gerbs. He placed the stand on the floor in front of Powers's drum kit, but behind the other musicians. With two gerbs angled outward at a forty-five-degree angle and two facing upward, they produced a fan of sparks across the stage for fifteen seconds. That night, the fountains of sparks produced by the gerbs were so bright that drummer Powers recalls not being able to see the crowd through them.

The next stop on Great White's 2002–3 tour, Louie's Sports and Bowl, in Sioux City, Iowa, was a far cry from the LA Forum. An actual bowling alley, it had a small bar where the band set up — and set off — their pyrotechnics. As with all other stops on the tour, Biechele informed the band just before they went on whether pyro would be part of the show. According to Mark Kendall, when pyro was not used, Biechele would tell them it was because the venue would not give permission. Where

permission was given, Biechele would open the show by flipping a switch, temporarily blinding drummer Powers and thrilling the small-town audience.

Subsequent stops on the tour included Altoona, Wisconsin; Lemont, Illinois; and Evansville, Indiana. Sometimes Biechele would use pyro; sometimes not. Each time he would advise the band which it would be. Clearly, some venues would not permit it. Others welcomed it, or simply didn't care one way or the other.

The tour moved on to Florida. When the Ovation club in Boynton Beach said no to pyro, it was not used. Great White then worked its way up the eastern seaboard to a gig at the Stone Pony Nightclub in Asbury Park, New Jersey. At none of the venues where Biechele shot pyro did he secure the required pyrotechnics permits.

Moving northward, the Great White / Trip tour bus arrived in Bangor, Maine, for a February 18 appearance at Russells, a sports bar holding about two hundred people. That morning, as he had at other stops, Jack Russell gave a promotional interview to a local radio station. Urging his fans to come out that night, he told Chris Rush, WTOS-FM's program director, that the band "had a new pyrotechnics guy" and that Great White would "be melting the snow tonight." It almost did, as Biechele again set off his pyro without a permit. The gerbs' glare prevented drummer Powers from clearly seeing whether or not sparks actually grazed the club's fifteen-foot ceiling.

The Great White tour bus rolled out of Bangor after 2 a.m. on February 19, 2003, and drove straight to West Warwick, Rhode Island, for the band's appearance on February 20 at The Station. Its occupants were dropped off at the Fairfield Inn motel, a few miles from the club, where they spent a day off. Biechele, the tour manager, would print from his laptop computer a "day sheet" specifying when the band members had to appear the next day for load-in, sound check, and meals at The Station. The day sheet also had a space for Biechele to check off whether or not pyro would be shot at the venue. Opposite the single-word question, "Pyro:" Biechele typed "Yes." If he recalled his March 2000 W.A.S.P. experience at The Station, Biechele would not have been concerned about pyro's acceptability there.

Great White's contract with The Station provided that the band would be paid \$5,000 for its appearance — \$2,500 in advance and the remaining \$2,500 "one hour before show time in cash or cashier's check." The document also recited a capacity of 550 for the club. Food and other amenities to be provided Great White by The Station were dictated by the contract's "hospitality rider."

In the pantheon of has-been rock gods, the resident deities run less to the Homeric than to Homer Simpson. And nowhere is their silliness more apparent than in the hospitality riders they attach to their touring contracts. Great White's contract had one. Every band has one. These wish-lists detail everything the venue must provide for its visiting rock dignitaries. Frequently, the demands appear to be in inverse proportion to the acts' star power. The hospitality rider for Jack Russell's Great White

carefully instructed, “A nutritious meal shall be served, including salad, chicken breast or prime rib, baked or mashed potatoes and freshly steamed vegetables.” It continued, in a more practical vein, “Please provide all utensils required to stop the crew from eating with their hands.”

Rock band Warrant’s hospitality rider to its Station contract required one case of Coors beer, one case of Coors Light beer, one twelve-pack of Corona, one twelve-pack of Sam Adams, one small bottle of Crown Royal, one bottle of chardonnay, a twelve-pack of Mountain Dew, a twelve-pack of Coke, a twelve-pack of 7-Up, a twelve-pack of Diet 7-Up, and a six-pack of V-8 juice. Water was to be provided in the form of two cases (forty-eight one-liter bottles) of Evian brand bottled water. (A schedule was provided for icing down the drinks prior to and during shows.) After the show, Warrant’s rider specified “one huge tray of deli meats,” “two large pepperoni pizzas,” and “on Sundays, 2 large buckets of KFC Fried Chicken.” It would appear that touring groups not only tank up for the show, but stock their (hopefully, restroom-equipped) bus from these lists.

The first clue that you’re getting to be an over-the-hill rocker (Dokken) is when your catering rider calls for “1 box of Zantac 75.” And your strangeness quotient (Black Label Society) is definitely hyped if your rider demands, in addition to the requisite liquor and snacks, “6 PAIR OF BLACK ATHLETIC SOCKS, MID-CALF.”

W.A.S.P.’s contract for The Station specified, in addition to “1 bottle of Mumm’s Cordon Rouge or Piper Heidsieck Champagne,” “1 medium-size jar of creamy peanut butter and 1 large-size jar of SEEDLESS blackberry or boysenberry jam.” Blackie Lawless must be either a picky eater or a very fastidious flosser.

One measure of clout in the rock touring world is how firmly a band can insist on the provisions of its hospitality rider. Englishman Mick Taylor had been a guitarist with the Rolling Stones in the late ’60s and early ’70s, pursuing a solo career thereafter. In 2000 he was still touring with backup musicians. Taylor’s proposal to the Derderians for a September 3, 2000, appearance at The Station demanded “7 return tickets to London, 7 single rooms in a first class hotel, and transportation to and from the airport in an air-conditioned mini-bus.” The revisions dictated by the Derderians were, “No 7 return tickets to London, no 7 single rooms in a first-class hotel, and no transportation in an air-conditioned van from airport.” Instead, they would provide Taylor with “5 single rooms at the Super 8 Motel.” Deal. It’s a long way down from the Royal Albert Hall to The Station, Mick.

Several rungs down the status ladder from even washed-up touring bands are so-called “tribute bands.” Tribute bands (read: copycats) are local bands that play the music and ape the trappings of a famous group. Heavy metal as a genre afforded ample opportunities for easy imitation. To the extent that a national act’s fame results more from its stagecraft than from its musicianship, impersonators have a field day. KISS, alone, has probably spawned a hundred tribute bands. Conversely, and not

surprisingly, there are precious few good Aerosmith or Heart tribute bands. It's one thing to don greasepaint and costumes; another entirely to convincingly duplicate Steven Tyler's or Ann Wilson's vocal licks.

In addition to the costumes and pyrotechnics favored by metal bands, horror motifs are common. Skulls, blood, barbed wire, and flames are often depicted. One such band, Firehouse, which played The Station not long before Great White's own fiery appearance there, had as its logo a skull wearing a fireman's helmet, over a guitar and flames. Even equipment manufacturers cash in on faux horror themes. One instrument-case maker sells coffin-shaped guitar cases for rock bands. (A "Coffin Case" was found among the charred debris of The Station.)

Of course, faux horror themes are easily copied. Bands like Megadeth, Slayer, KISS, and Poison were all imitated. And if the famous bands also used pyrotechnics to shock and awe, so would their low-budget tribute bands.

But why do people spend hard-earned cash to hear the vocal stylings of a Michael Mikutowicz? "Mickey" Mikutowicz is a landscaper and snowboard instructor by day, who pretends to be Ozzy Osbourne by night. He has done it for years. And the crowds keep coming out. As Mikutowicz explains, "Tickets to a Black Sabbath concert start at \$100. The average working stiff can't afford that. But for \$15 and the price of a few beers, he can convince himself for a little while that he's seeing a rock star playing his local bar. It works out well for everybody."

Mikutowicz's Black Sabbath tribute band, Believer, played The Station three or four times a year from 1996 through 2002. In fact, it was scheduled to appear at the club in February 2003, eight days after Great White. Over those years, Mikutowicz came to realize that safety often yielded to spectacle there. One night at The Station, before the Derderians owned the club, Believer's bass player, Steve Lewis, walked into the band room and observed a member of another band, Holy Diver (a Dio tribute band), pouring explosive powder into a flashpot device with a lit cigarette dangling from his mouth. Mikutowicz complained to the club's manager, who reprimanded the smoker. After that incident, Believer's contract, rather than demanding champagne and peanut butter, forbade any club from having pyrotechnics in the band room.

Believer's front man was as frugal as he was careful. In the summer of 1996, while his band packed up after playing a gig at The Station (then owned by Howard Julian), Mikutowicz noticed a stack of discarded white plastic foam blocks, approximately two inches thick and seventeen inches square, near the band door. Figuring he could use them to pad instrument cases, he threw several in his van and returned home to western Massachusetts, where he cut them up and used them over the years. A scrounger by nature, Mikutowicz did not give the recycled foam blocks a second thought until 2003 when he saw news accounts of the Station fire.

Holy Diver was not the only local band to bring pyrotechnics into The Station. Rev

Tyler's now-defunct Massachusetts band, Lovin' Kry, opened for W.A.S.P. at the March 8, 2000, concert marking the transition of club ownership from Julian to the Derderian brothers. A videotape from that night shows Lovin' Kry using white-sparking pyrotechnic gerbs. Nor was that the only time Lovin' Kry used pyro at The Station. "We did it every time, and every time they invited us back. They loved us there," said Tyler. Explaining that The Station not only permitted pyro, but encouraged it, Tyler added, "They knew they'd get a better show every time we used it — a lot of tickets sold; a lot of booze sold."

Other bands using pyro at The Station included the ironically named Hotter Than Hell, Looks That Kill, and Destroyer. They joined the ranks of just-plain-stupidly-named non-pyro bands at The Station like Mutha Ugly and Wet Her Belly, as well as the marginally witty Shirley Temple of Doom.

Pyrotechnics and marginal economics can sometimes intersect in dangerous ways. Nathan Conti ran sound for Dirty Deeds, an AC/DC tribute band that occasionally appeared at The Station. His father was Dirty Deeds' lead singer, and, in true Rhode Island two-degrees-of-separation fashion, his sister was Station manager Kevin Beese's girlfriend. Nathan was no musician, but he used his electronics training from New England Tech to save the band some money. AC/DC used flame-shooting flashpots in its stadium act, and Dirty Deeds wanted to look just like the real thing. But flashpots and a controller cost over a thousand dollars. Ever resourceful, Nathan built his own pyro apparatus from tomato-juice cans, switches, and four model airplane glow plugs for \$150. He'd fill each can with a shot-glass of gunpowder (obtained using his mother's firearms permit), then energize its glow plug to spark a flame six feet high. Nathan used his apparatus twelve times per show, on at least five occasions at The Station. Sometimes the club's soundman, Paul Vanner, would provide cables and help him wire it. Conti signaled the band with a high-pitched tone through the sound system (presumably, not detracting much from the musicianship) before firing the flashpots, so that his father and the other musicians could first step forward on The Station's small stage. Then the flames would erupt vertically between them and their drummer, a few feet from the club's foam-covered walls. Nothing to it. And a bargain, too.

Some pyro bands at The Station eschewed equipment altogether. Forty-year-old Edward Ducharme did "theatrical stunts" for the Halloween-themed band 10/31. His main stunt was a party trick involving a can of butane fuel and a cigarette lighter. He'd fill his mouth with butane gas, expel it toward the ceiling, and light the plume with his lighter. One time at The Station he performed his fire-breathing trick a little too close to the band's wheelchair-bound bass player, Chad Custodio, setting the musician's hair on fire. Custodio's brother, Jack, took a break from his lead guitar duties to pat out the flames. "The guys in the band are pretty much expendable," joked Ducharme afterward. Two days before that gig, Ducharme had shown Station

soundman Vanner a videotape of his fire-breathing stunt being performed at another club. Vanner's only comment was, "Keep it away from the walls."

One user of pyrotechnics at The Station should have known better. Frank Davidson grew up in Rhode Island and had run lighting at The Station during the club's prior lives under previous owners. He was a regular there until 1996, when he moved to Florida. There, he found work as a licensed pyrotechnician for a company called Beyond Belief Productions. Among other assignments, Davidson handled pyro displays for TNN's World Championship Wrestling at venues around the country. Millions of Americans watched his work on TNN's *Monday Night Nitro* and *Thursday Thunder* wrestling programs. He well knew the dangers of pyro and the permitting requirements of every state, including Rhode Island. Specifically, he understood that every state required that a licensed pyrotechnician obtain a local permit before shooting gerbs or flashpots. Issuance of a permit usually required a preshow safety demonstration for local officials and poised extinguishers at showtime.

When Davidson, who went by the nickname "Grimace," returned to New England, he brought with him several gerbs and flashpots liberated from his Florida employer. He agreed to do pyro for Human Clay (a Creed tribute band), which was scheduled to appear at The Station in November 2001, and again on New Year's Eve 2002. Several days before the November gig, Davidson demonstrated a gerb in The Station for the club's manager, Kevin Beese, and light man David "Scooter" Stone. He shot a twelve-foot (spark distance) gerb with twenty-second duration, and it hit the roof above the stage area. Then Davidson shot a ten-foot gerb without complication. "Grimace" was assisted in the demo by Scott Gorman, a Cumberland, Rhode Island, volunteer firefighter, who stood by with fire extinguisher at the ready.

After the demonstration, Beese approved the pyro, so "Grimace" Davidson used it for Human Clay's November Station gig, as well as the New Year's Eve bash. Station regular Cliff Koehler clearly recalls that Jeff Derderian was on hand for Human Clay's New Year's pyro show.

Shortly thereafter, Beese scheduled Davidson to do a pyrotechnic display at The Station during the week of February 24, 2003, as part of a promotional video shoot for a band called Super Unknown. In that same conversation Beese offered him a position handling pyro and lighting at The Station on a regular basis. Davidson replied, "We'd have to do things the right way. You know. Permits, insurance." Beese immediately balked, rescinding the employment offer.

Davidson's February Station gig for the promotional video did not take place as scheduled. Three days earlier, someone else's pyro reduced the club to ashes.

As Mickey Mikutowicz had noticed, The Station had long been less than vigilant about fire safety. Alfred Gomes noticed, too. Gomes promoted a few bands that appeared at The Station. In August of 2000, six months after the Derderians took over (and a few weeks before Mick Taylor's stay at the West Warwick Super 8), he

watched as a band packed up its gear. When one of its members absentmindedly flicked a lit cigarette to the floor of the drummer's alcove, it came to rest against a foam-covered wall — which immediately began to burn. The musician hurriedly stomped it out, then looked to see if the club's soundman had noticed. He hadn't. When Gomes approached the soundman and said, "I think that guy over there just ignited your wall with a cigarette," he was told "in a nice way" to mind his own business. "The club gets inspected all the time. That stuff is perfectly safe," was the response.

CHAPTER 6

LUCKY DAY

IT WASN'T OFTEN THAT ROCK IDOLS, even past-their-prime players like Great White front man Jack Russell, graced the streets of West Warwick. So when his tour bus rolled into town, the locals were starstruck — even if they weren't quite sure who he was. But they could see from his high-mileage face and full-sleeve tattoos that he lived a life the average Rhode Island warehouseman or carpenter could only dream of. He was very, very cool.

At least that's what crossed Tina Ayer's mind as she peered over the small bottles of shampoo and conditioner on her supply cart at the guy stepping out of room 210. The Fairfield Inn motel, where she worked as a housekeeper, had its share of lonely salesmen, lost tourists, and trysting couples, but this guy was different. He wore a bandanna pirate-style over his chin-length, dirty-blond hair and exuded the confidence of someone who was used to being recognized. He looked familiar to Ayer, though perhaps older and jowlier than she could place.

Tina Ayer had done the '80s heavy-metal thing. But now a thirty-three-year-old single mother, she confined her metal trappings to rings on almost every finger (some multiple) and blond highlights in her black hair. Early mornings, Tina was responsible for cleaning guest rooms at the Fairfield Inn; the rest of the time, for raising her son, Danny, and daughter, Kayla. The burdens of adulthood left her little time or money for the concert scene. So, when small talk with the mysterious man in the hallway gave way to introductions and an autograph, Tina couldn't believe her good fortune. Jack Russell. Great White. Oh, my God. He'd be appearing at The Station the next night, and Russell told Ayer she could go as his guest.

Tina's best friend, Jackie Bernard, also cleaned rooms at the motel. "Can she come, too?" pleaded the chatty Ayer. "Sure," said Russell, and he placed a call on his cell phone to Dan Biechele, who kept a notebook page for this very purpose. Under a handwritten heading, "Guest List," Biechele printed the names "Tina Ayer" and "Jackie Bernard." Given The Station's history of overselling and overcrowding, Tina and Jackie were lucky to get in.

Luckier still would be those who got out. Some would escape the club with their lives. Others, whose interest in The Station was more business than pleasure, would be lucky to get out with their fortunes. By November 2002 the Derderian brothers had tired of running the club. Michael Derderian was in the middle of a bitter divorce, and his wife was seeking a court order that he sell The Station. The brothers placed an ad

in the *Providence Journal* offering to sell the business for \$199,000. One interested reader was Armando Machado. Machado had been a building contractor for years, and he and his wife, Nancy, were looking for a side business they could both run to “help them get ahead.” Machado saw the newspaper ad, called the number in it, and spoke with Jeff Derderian. A visit to The Station soon followed.

The Machados were shown into the club by Jeff and Michael Derderian, who chatted with them on the dance floor for about a half hour. The brothers explained that they’d been in the club business for three years and “were moving on to bigger and better things in the real estate field.” (Presumably, in their next venture they would stay current on water charges, sewer charges, and rent — always bones of contention with their Station landlord.) The group then adjourned to the club’s back office to talk terms. Michael Derderian did most of the talking.

When the Machados inquired about the finances of the club, they were told that a deposit of \$20,000 was required “to prove they were interested” before the Derderians would show them the books. Mike Derderian told them this was because “two other parties were interested in purchasing the club.”

The Machados were serious about their bid for financial independence, so they took out a home equity loan to finance their deposit. Once they handed over the \$20,000, the sellers showed them a handwritten book listing daily cash receipts for the club — nothing about profit or loss. On November 24, Armando Machado signed a purchase-and-sale agreement for “The Station Rock Club.” Only thereafter did he learn of one small problem: the Derderians didn’t own the building.

When Armando Machado checked with the West Warwick Town Hall he learned that the building at 211 Cowesett Avenue belonged to Triton Realty, Ray Villanova’s company. Machado arranged to meet with Villanova (himself unaware that the Derderians were trying to sell the club), who told him that the brothers were locked into a five-year lease, and Villanova wouldn’t let them assign it to the Machados without the Derderians’ remaining on the hook for its final two years.

When Machado told Mike Derderian that he’d spoken with Villanova, Derderian became incensed, fuming, “I wish you hadn’t done that!” With the deal dead, Machado pleaded for his \$20,000 deposit back, because “they couldn’t sell something they had no right to sell,” and because “the business was worth nothing without the real estate.” The Derderians told Machado that the deposit was nonrefundable, but they would return it “when they got another buyer.”

If Machado thought himself ill-used, he would thank his lucky stars only a short time later.

The Derderians’ “other two buyers” were not exactly waiting in the wings, because the next person to show serious interest in the club didn’t call until January 27, 2003. He was Michael O’Connor. More sophisticated than Machado, O’Connor and a partner, Dan Gormley, arranged to meet with Michael Derderian at the club on

January 28. The pair took the tour, checking out the stage area with its unusual egg-crate foam walls, the blacked-out atrium windows (“too dark for a lunch crowd,” thought O’Connor), and the polished horseshoe bar. They discussed the equipment that would be included in the sale — sound system, stage lighting, furniture.

Mike Derderian explained to O’Connor how they’d book national acts “four or five times a year” but use “cover” bands Thursdays through Saturdays. He pointed to the rock-themed mural they’d commissioned from Anthony Baldino as a valuable property improvement. O’Connor was impressed at how positively Derderian spoke of his employees’ teamwork.

Derderian also spoke of the club’s “very good” relationship with its residential neighbors. He told about giving them Jeff ’s cell phone number to call if things got too loud. They never discussed buying soundproofing materials from Barry Warner. Asked about permitted occupancy, the club owners told O’Connor they were “never really given an occupancy limit.”

Five days later, buyers and sellers negotiated terms. Derderian asked for \$195,000. O’Connor countered with 165. They settled on 190, but there remained issues of the lease assignment to work out. Nevertheless, they inked a “pre-purchase agreement” on February 7, and the buyers handed the Derderians a \$19,000 deposit. The plan was for O’Connor to return on the twentieth, to see the club in operation when a national act — Great White — was appearing. Then they would close on the deal.

Around 9 o’clock on the morning of February 20, Jack Russell and the band headed to Denny’s restaurant for breakfast. Russell hardly had time to order the Grand Slam Breakfast when a tradesman in dusty work boots approached from a nearby table. “You guys have got to be a rock band,” declared Richard “Rick” Sanetti. Sanetti had been working with a crew installing flooring at the Hampton Inn then under construction in nearby Coventry, Rhode Island. That same crew was now working on some serious breakfast at Denny’s.

Sanetti could not believe it. Back in the ’80s he had bought Great White CDs. He had once cribbed lyrics from the band’s “Save Your Love” for a note he wrote to his then girlfriend, now wife. And here he was, twenty years later, with only a plate of hash browns standing between him and the great Jack Russell. Life was good.

Russell, the gracious celebrity, invited Sanetti and friends to The Station as his guests the following night. He told them that the Station concert would be a “killer show,” complete with pyrotechnics. They accepted in a heartbeat.

Great White road manager Dan Biechele added Sanetti and friends to the guest-list page in his notebook, penning a special reminder for Russell to dedicate “Save Your Love” to Rick’s wife, Patty. It would be a night to remember. In addition to his friends from work, Rick Sanetti planned to bring his wife and their beloved niece, Bridget Sanetti. Bridget was only twenty-five and knew little of Great White. But she had

lived with Sanetti and his wife the last three years while working as a career counselor with at-risk kids. Bridget was responsible beyond her years, but Richard knew that her fun-loving side would not let her miss a chance to see an '80s band so dear to her old aunt and uncle.

The morning of February 20, Michael O'Connor and Dan Gormley took an important step toward owning their very own rock club. They filed articles of organization with the Rhode Island secretary of state for "The Station Club, LLC," a limited liability company. Pretty soon they'd be in business.

That same day, Jack Russell woke up with an idea. Notwithstanding the paucity of free space on his arms, he decided that what he really needed was another tattoo, and so set about finding the best local artist. He asked around and was told that Doors of Perception was the place to go. When Russell called the tattoo shop, the phone was answered by its owner, Skott Greene. Greene, thirty-five, had always wanted to tattoo a rock star, but when Russell sought an appointment, Greene smelled a practical joke. The caller wanted him to "bring his equipment to Russell's tour bus" late that afternoon, but Greene was already committed to an in-shop appointment. Canceling on a customer was not how Greene had built his reputation. If this "Jack Russell" really wanted a tattoo, he could come to the shop.

Skott Greene was a gentle bear of a man, huge, bearded, and covered with the art of his trade. Thursday night at his shop was "geek night," when he and friends Brian O'Donnell and Richard Cabral would gather to drink soda and work on model airplanes, surrounded by Greene's Star Wars collectibles. O'Donnell was in the shop when Greene took the call from someone claiming to be Jack Russell. He stuck around all afternoon and evening just to see if the call had been legit.

Greene's late-afternoon appointment was Michael Hoogasian. That Hoogasian was accompanied by his beautiful wife, Sandy, was no surprise. The two were inseparable. Hard workers both, they had saved from Mike's job as a Coke deliveryman and Sandy's at the Gap in Warwick Mall to impeccably furnish a small house they'd bought in Cranston. Married just sixteen months, they came to the shop to get a tattoo for Mike's thirty-first birthday. Mike already had a couple of tattoos, but this one would be different — a flame design.

Even though Sandy and Mike lived in Cranston, they were very familiar with West Warwick. Mike Hoogasian's bachelor party had been held at The Station. Not only did Mike have a history with The Station, he had past exposure to Great White. In 1984 Mike, then twelve years old, attended a concert at the Providence Civic Center with his childhood friend, Derek Knight. The opening act was Great White, starring Jack Russell. Hoogasian never forgot it. So when he heard that Great White was coming to West Warwick in 2003, he immediately downloaded Jack Russell's new solo album.

Come nightfall, Russell still hadn't forgotten his tattoo. But he had one thing to do before he could get it. The rocker had agreed to be interviewed by two DJs from the

campus radio station of Nichols College in Dudley, Massachusetts. So, at 6:30 that night, Russell sat with Jimmy Gahan, twenty-one, and Mike Ricardi, nineteen, in the galley of his tour bus, their camcorder rolling. Gahan and Ricardi planned to air the interview on their hard-rock program, *Jim and Mikey's Power Hour*, back at school. Each asked Russell a handful of questions, and the singer was expansive in his answers. Russell explained to his rapt listeners, "I don't do this to make money. I don't need to work right now. I do this because I love playing for people." Speaking wistfully of the '80s, Russell mused, "We grew up in those days, and those days were special to us. A lot of people seem to forget that. They get older. They get [gesturing with 'air quotes'] *responsible*."

Russell told the boys that they, too, were on his guest list for the show that night. Both stepped off the bus elated.

When Jack Russell finally strode into the Doors of Perception at 7:15 that night, it was like Jesse James walking through the swinging doors of a saloon. Heads turned and conversations stopped. It was really him. Russell turned out to be a regular guy, though, bantering with the crowd as Greene's needle buzzed and another dark figure joined the dense ranks of Russell's body art. Mike Hoogasian regaled Russell with his knowledge of Great White's old songs, as well as material from Russell's recent solo album. Russell even sang a little. Then, he invited all in the shop to The Station that night as his personal guests. "If they give you any trouble at the club, come to my bus. Come get me. You're on my VIP list." A phone call to Dan Biechele was all it took to put them on that lucky list.

As Mike and Sandy drove home to change for the concert, Mike excitedly called his boyhood friend, Derek Knight, with whom he had seen Great White almost twenty years before. "Come on, Derek, I can invite anybody I want. He put us on his guest list." Knight was tempted, but thought better of it. It was past nine, and his young family was tucked in for the night. Knight had gotten "responsible."

About ten minutes after nine, Mike O'Connor arrived at the nightclub that would soon belong to him. He eyed the huge Budweiser banners over the front door and on the railing of the club's front steps. Sponsorship would be something he'd have to learn about. Tracy King, working front door security, welcomed him as he passed through the double white doors, up the gently sloping corridor to the ticket desk staffed by Andrea Mancini. Her long blond hair and dazzling smile were disarming, but O'Connor never let on that he would soon be her boss. Andrea confirmed that he was a guest of the house, then waved him past her husband, Steven, who was checking IDs. O'Connor spoke briefly with Jeff Derderian, who was busy running the place — at the door, behind the bar, in the back office. Derderian pointed out the emcee for the night's show, Mike Gonsalves, a DJ with rock station WHJY who went by the moniker "Dr. Metal."

O'Connor was surprised that the crowd was close to his age — thirty to forty-five

years old. The band opening for Great White, Trip, was onstage, so he retreated from that noisy area to the less crowded horseshoe bar, where he bought a drink and watched the operation. Eventually, O'Connor's gaze was drawn to the bar's two cash registers. Their constant ringing was more music to his ears than anything coming from the stage.

By 10:25 Mike O'Connor had seen enough. He didn't need to hear Great White, so he walked out the front door, through the packed parking lot, and got in his car to drive home, buzzing at the prospect of owning a cash cow. On his way out of The Station's parking lot, he noticed a news van from Channel 12 TV turning toward the club — and then he remembered that Jeff Derderian was a reporter for that station.

Jason Lund, twenty-six, was in the thick of The Station crowd pressed to the front of the stage, anxiously awaiting Great White's appearance. His wife was expecting their third child, and he hadn't felt right going to the show alone. But she had persuaded him to go and have a good time with his friends. When his cell phone rang, Lund barely heard it over The Station's din, so he elbowed his way to the men's room to talk. It was his wife. She was having contractions. He'd better get home. Lund immediately left to join her, but by the time he got home, the contractions had diminished to a false labor. "Too bad," he thought.

As of 10:30, all the people on Jack Russell's guest list had arrived at The Station: the housekeepers from the Fairfield Inn, the construction crew from Denny's, the two college DJs, and everyone from the Doors of Perception tattoo parlor. But at 10:55 Patty Sanetti left to go home. Her job required her to activate a computer program at 11 p.m., "but she'd be back," she assured her husband and niece. She'd miss the beginning of Great White's set, but what could she do?

Everyone else on the guest list remained at the club, in a state of high anticipation. Right up until 11 p.m., when Great White struck the opening chords of "Desert Moon," each would consider it to be the very luckiest of days.

CHAPTER 7

YOURS, IN FIRE SAFETY ...

AS THE HOUR APPROACHED FOR GREAT WHITE to go on, Mike and Sandy Hoogasian huddled together facing the stage, feeling the crush and the excitement of the crowd. They tried to take in the whole scene, but the sheer number of bodies, shoulder to shoulder and back to belly, made appreciation of anyone beyond a six-foot radius impossible. Mike thought back to his bachelor party at The Station two years earlier, when his firefighter brother-in-law had asked him, “You hang out in this firetrap?” and wondered about the room’s legal occupancy. Every other restaurant or club he’d been in had a sign prominently displaying the maximum occupancy. But Hoogasian saw none here.

Perhaps the reason no maximum occupancy was posted at The Station was that legal capacity there was a fluid concept, depending upon when the calculation was performed and who performed it. The last person to undertake that calculus, Denis Larocque, did so as part of the club’s transfer of ownership from Howard Julian to the Derderians. To call Larocque’s methodology creative would be putting a most benign gloss on it.

In Rhode Island, local fire inspections are carried out by a member of each town’s fire department who has been appointed a deputy state fire marshal. In West Warwick in the late 1990s that responsibility fell to Denis Larocque. Larocque was responsible for enforcing the state fire code, which specified, among other things, how legal occupancies were to be calculated for restaurants and nightclubs. Having lived his entire life in West Warwick, Larocque was more than familiar with every street and building in town.

Larocque had graduated from West Warwick High School, where he played on the Wizards football team. His father, a son of French Canadian mill workers, toiled for years as a second-shift grinder at Electric Boat Shipyard in Groton, Connecticut. Young Denis would not follow in those footsteps. Rather, when he was twenty-one, Larocque joined West Warwick’s close-knit fire department, where he rose steadily through the ranks. He married a local girl, had three children, and settled in the Arctic Hill neighborhood, just blocks from where he’d been raised — only this time, Larocque lived in the neighborhood’s largest house, with a pool in the backyard. In addition to his home, he owned a dozen apartments in town, an industrial park unit in nearby Warwick, and an undeveloped house lot in a desirable cul-de-sac. By all accounts, Larocque balanced personal ambition with public service, coaching youth

sports and supporting children's activities. His friends and co-workers called him Rocky.

The job of fire code inspector in West Warwick has never been regarded as particularly desirable. The fire marshal is responsible for inspecting clubs like The Station whenever a liquor license is renewed or transferred. He examines other licensed businesses like gas stations for code violations and inspects all houses being sold, to make sure they have working smoke detectors. He investigates and reports on the cause of every fire in town. And every time a new building or subdivision is proposed, he has to approve the plans. Hardly as exciting as actually fighting fires, the position of fire marshal is heavy in red tape and unlikely to endear its holder to local businesspeople.

In 1998, when the West Warwick fire marshal's position came open, Larocque was already one of five battalion chiefs in the department and eligible for retirement. Although the job paid the same as his old position, \$42,216, he decided to take it. Once appointed, Larocque brought a new vigor to fire code enforcement that was not exactly welcomed by business owners. Bull-necked and stocky, with a fireman's trademark mustache, the new fire marshal immediately made his presence known, roaming the town in his official van and busting businessmen for the kind of minor violations that went unchallenged by his predecessor. A few years into his tenure, however, Larocque's inspection reports document his recommending liquor license renewals at some favored establishments, despite persistent violations. One was the Portuguese American Social and Athletic Club, a run-down bar with function rooms used for political gatherings; another, Evelyn's Villa, was a restaurant owned by a former town councilman.

In December of 1999 his work took him to The Station. The police had received numerous complaints from the club's neighbors about noise and overcrowding, and in response, Police Chief Peter Brousseau asked Gerald Tellier, the acting fire chief, to have Larocque review the club's capacity.

Larocque's capacity calculations at the Station site were not without precedent. In 1969, the building at 211 Cowesett Avenue was a restaurant called the Red Fox Inn. Its maximum capacity, set by the town fire marshal and echoed by its building inspector, was fifty. In 1981, Ray Villanova opened his Italian restaurant, P. Brillo & Sons, there, and the town fire inspector rated the building, essentially unchanged in size, at 161 occupants. Come 1991, a new tenant opened a sports bar, Crackerjacks, on the site, and the then fire marshal upped the capacity to 225.

Later would come Larocque's turn to balance the public's right to safety against a business's desire for profits. The Rhode Island state fire code mandates that places of public assembly provide a specified number of square feet per occupant, depending upon how that space is used. If there are tables and chairs, the number of square feet is higher (and, hence, fewer people permitted); if the area is clear of obstructions, less

space is required for each occupant. With code book in hand, Larocque set about measuring each room in the club.

On December 30, 1999, he wrote to Police Chief Brousseau explaining his conclusions. Larocque's letter stated that "in the club's present layout" the permitted occupancy was 258; however, "this business is allowed to increase this number to 317 by removing tables and chairs from three lounge areas and providing only standing room in those areas." The calculation allowed seven square feet per standing-room patron.

Larocque signed this letter, as he signed all his official correspondence, "Yours in Fire Safety, Denis Larocque, Fire Marshal."

Just over two months later, when the Derderians were purchasing the club from Howard Julian, Michael Derderian asked Larocque to further sharpen his pencil and see if he could increase the club's capacity to 400 for big concerts. Larocque accomplished this and more, raising the building's limit to 404 occupants "when all tables and chairs are removed from all areas," so long as a uniformed firefighter was privately hired by the club for all such events. (Nowhere does the fire code allow for relaxation of its limits when firefighters are present.) This time his calculation allowed only five square feet per person by designating the *entire building as standing room*. This was the physical equivalent of fitting 404 people onto half the surface of a high-school basketball court.

The fire code relied upon by Larocque defines "standing room" as "only that part of the building directly accessible to doors for hasty exit," such as a restaurant lobby or a ticket line where customers stand only temporarily. According to William F. Howe, the chief of inspections for the Rhode Island State Fire Marshal's Office, the code does not permit an entire building to be classified as standing room.

And, yet, that's where Sandy and Michael Hoogasian found themselves, waiting for Great White to go on — in a sea of standing-room revelers so thick that movement was nearly impossible. They, and everyone else with a sightline to the stage, would have to remain where they were until the show finished.

Some Station patrons, uncomfortable with the density of the crowd on the dance floor, managed to position themselves along the club's south wall, on a raised area normally occupied by tables and chairs. Kimberly and Stephanie Napolitano, thirty-year-old twins from North Providence, were among those on the platform with their backs pressed against the wall. They couldn't help but notice a strange substance covering that wall from wainscoting to ceiling — corrugated egg-crate-type plastic foam, spray-painted black with flecks of glitter thrown into the paint. The foam ran the length of the south wall, then spread over the entire proscenium arch of the west stage wall, lining the drummer's alcove and continuing to the right of the stage, across an inward-swinging door with a sign that read: KEEP DOOR CLOSED AT ALL TIMES. The stuff even ran up one sloped ceiling pitch above the dance floor — nine hundred

square feet in all. This unusual material was the single dominant feature of the performance space — seemingly impossible to be overlooked. And yet it was.

The state fire code requires decorative and acoustical materials on nightclub walls to be flame resistant. It forbids materials “of a highly flammable character” and specifies that the fire inspector conduct a simple “match flame test” on a sample if he has any doubt about a material’s flammability. Under that test protocol, flame may not spread more than four inches up a vertically held eight-inch strip for twelve seconds after a match is applied to its lower edge. Also, “materials which drip flaming particles shall be rejected if they continue to burn after they reach the floor.”

Had the match flame test been applied to the kind of foam behind the Napolitano twins, flame would have consumed the *entire* eight-inch strip in four seconds, leaving nothing but a burning puddle of a napalm-like substance beneath it.

An earlier attempt at sound insulation did, however, catch the attention of Denis Larocque. In March 2000, when the Derderians were purchasing the club, the fire inspector insisted on removal of a black curtain covering the walls of the drummer’s alcove; this, because the club lacked proof of its flame resistance.

The Derderians installed the gray egg-crate foam in July 2000. The first West Warwick fire inspection thereafter was performed by John Pieczarek, the department’s director of communications, in November 2000. It was done in conjunction with the club’s annual liquor license renewal. Pieczarek’s report makes no mention of the foam covering the entire west end of the club; however, he noted that the door to the right of the stage (which at that time was surrounded by foam) “needed repair.”

A year later, in November 2001, Larocque himself performed the annual inspection at The Station. Again, he cited the stage door — this time, because it swung inward. Again, club employees removed it for the compliance check — then put it back. And again, the report made no mention of the foam covering the entire west end of the club.

Larocque returned to The Station in November 2002 with town building inspector Stephen Murray in tow. Larocque and Murray were not only friends, but Murray had been a tenant in one of Larocque’s rental properties in 2000 and 2001. (That three-unit rental property was noteworthy for having had its electrical system upgraded in 1999 with the help of a town of West Warwick housing grant intended to benefit low-income, Section 8 tenants. Two of its three tenants were Stephen Murray and Larocque’s sister, Jacqueline.) This time, among other minor violations at The Station cited by Larocque and Murray, was, again, the inward-opening stage door. But nothing was said about the foam. On December 2, 2002, a “compliance inspection report” confirmed that all cited violations had been corrected. However, the offending door, removed for that compliance inspection, was immediately rehung by light tech David “Scooter” Stone and bouncer John Arpin at the direction of club manager Kevin Beese.

New England Custom Alarms had been under contract to inspect The Station's fire alarm system twice yearly, as required by state law. On December 4, 2002, the company sent the Derderians a registered letter explaining that because the brothers had persisted in failing to pay \$65 for their last inspection, the company would no longer be responsible for future testing. A copy of this letter was received by the West Warwick Fire Prevention Office — Denis Larocque's office — on December 6, 2002. If Larocque was aware of the alarm inspection cancellation, it did not cause him to contact The Station before the night of February 20, 2003.

A critical distinction between the egg-crate foam overlooked by Larocque in multiple inspections and other, more minor, violations cited by the inspectors is that the latter could be corrected (if temporarily) without impairing the club's continued operation. After buying the foam from Barry Warner, however, the Derderians had to regard that wall covering as their key to mollifying the noisome neighbors — and worth preserving at all costs.

Larocque would testify after the fire that he "did not see" the nine hundred square feet of egg-crate foam covering the entire west end of The Station nightclub. He did, however, notice the inward-swinging stage door that had been cited as a correctable violation on two previous inspections. That door was completely covered with the gray egg-crate foam. Because it lacked a doorknob, Larocque would have had to *reach through a hole in the foam* in order to pull the door inward.

CHAPTER 8

SUDS, SPARKS, AND SPONSORSHIP

We're back! We're fuckin' back. Drink all the Budweiser, baby! Who's got Budweiser? Hey, we've got some HJY shirts. All right, drink all the Budweiser. Bottled and brewed today, right? All right! HJY's in the house. Bud, Bud Light, drink it all! . . . Jack Russell's Great White, how about that? Let them hear it in the back there, everybody! They're coming out in just a few minutes. Keep it on 94 WHJY, your home of rock 'n' roll. And drink all the Budweiser in the house.

THIS WAS THE BETWEEN-SET PATTERN of emcee Mike Gonsalves, radio station WHJY's late-night DJ, who went by the stage name "Dr. Metal." Just five feet six, Gonsalves made up for his modest stature with boundless energy and a 100-watt smile. As he tossed T-shirts to the crowd and exhorted them to drink all the Budweiser in the place, directly behind him Great White's road manager, Dan Biechele, set up an apparatus consisting of cardboard tubes, wires, and a battery. In minutes, the crowd would be treated to some very special effects.

Gonsalves, forty, shared some personal history with Jeff Derderian. Each had gotten his start in broadcasting at Rhode Island College's low-wattage campus radio station, WRIC. Derderian had been its news director, and Gonsalves, the host of a program called *The Dr. Metal Show*. Upon graduating in 1986, Gonsalves joined WHJY-FM, a rock format station in Providence, where he hosted *The Metal Zone* every Saturday night and DJ'd from midnight to 5:30 a.m. Monday through Friday. Beloved by night owls, graveyard-shift workers, and hard-rock aficionados, Gonsalves was the station's "overnight franchise," according to its general manager, Bud Paras. Like Mike Hoogasian, Gonsalves had been to a Providence Civic Center concert in which Great White opened for Judas Priest. He considered it one of the coolest shows he'd ever seen. So it was without hesitation that Dr. Metal accepted the invitation to emcee Great White's appearance at The Station.

Actually, it was also part of his job. As an on-air "radio personality," Gonsalves was expected to appear at concerts and events promoted by WHJY or its advertisers. In the case of the Great White concert, Rhode Island's exclusive Budweiser beer distributor, McLaughlin & Moran Inc., was the advertiser who arranged with WHJY for his appearance at The Station. Budweiser's interest in the concert was to promote its then-current marketing gimmick, "Born-On Dated" beer. Despite decades of touting "beechwood aging" as key to its product's quality, Anheuser-Busch decided in 2003 to hype beer sold within days of its brewing, presumably to derive competitive advantage from its dozen regional breweries, as compared with Coors's and Miller's

more centralized distribution systems. With that calculation, Born-On Dated beer took its place beside Spuds MacKenzie and thespian frogs in the brewer's never-ending quest to persuade Americans to ingest more of its intoxicant.

For the marketing program, Budweiser distributors like McLaughlin & Moran conducted "Day-Fresh" promotions at various bars and nightclubs, its trucks delivering beer brewed that same day, which would be given away ("sampled") to retail patrons. Because The Station was a good Budweiser customer, its assigned salesman thought it a great idea to run a Day-Fresh promotion at the Great White concert.

McLaughlin & Moran was a substantial advertising customer of WHJY, thereby earning promotional credits that the beer company chose to collect in the form of promotion of the Day-Fresh gimmick. The rock station agreed to park its distinctive van at The Station the evening of the concert, provide WHJY personnel to distribute promotional items at The Station, air commercial spots for the beer promotion, and coordinate the appearance of Gonsalves.

For its part, McLaughlin & Moran would pay a \$200 "talent fee" directly to Dr. Metal and provide two three-by-ten-foot outdoor banners for the club's façade. Festooned with the Budweiser logo, each read: "Party with WHJY and Budweiser" and "The Station Presents Great White." The Derderians displayed them prominently the entire week before the concert.

From February 17 to February 20, WHJY trumpeted: "This Thursday night, 94 HJY wants you to taste Day-Fresh Budweiser — bottled and delivered that same day! Try it this Thursday at The Station in West Warwick . . . with Great White performing live! The Doctor is there, HJY and Budweiser will hook you up with prizes from ten to midnight. Think fresh, drink fresh with Budweiser, this Thursday night at The Station in West Warwick!"

Members of The Station nightclub's target audience who were listening would have reasonably concluded that two of their most trusted brands, WHJY and Budweiser, were endorsing the upcoming concert. That impression was cemented by Dr. Metal's on-air telephone interview with Jack Russell on the evening of February 19 in which Russell bragged of pyrotechnics being a new addition to Great White's tour. Neither WHJY nor Budweiser inquired whether the pyrotechnic-enhanced concert, with which their names were being associated, was illegal or dangerous.

The night of Great White's appearance at The Station, veteran McLaughlin & Moran salesman Donald Trudeau, who was fifty-seven years old, and merchandiser Michael Cordier, thirty-two, arrived at the club with a dozen Budweiser hats and two dozen T-shirts to give away. Earlier in the day, ten cases of "Day-Fresh" Budweiser beer had been delivered from a brewery in Merrimack, New Hampshire. The beer was purchased by The Station but kept segregated from the bar's other stores, to be accessed when Trudeau or Cordier requested a bottle or two. They'd approach

concertgoers, engage them in conversation about the many benefits of drinking fresh beer, and ask them to try Day-Fresh Budweiser. Out would come a long neck from the salesman's Day-Fresh stash, and another entry would be made on McLaughlin & Moran's tab. And so it went. Trudeau and Cordier confined their educational efforts to the horseshoe bar area of the club because the music in the club's west end, from Great White's opening band, Trip, was too deafening for conversation.

The two beer men were joined near the horseshoe bar by a group whose ages set them apart from most of The Station's paying customers. Jordan Clark, David McGinn, and Jill Malinowski were Rhode Island College communications majors, participating in unpaid internships with WHJY for academic credit, when luck found them assigned to McLaughlin & Moran's beer promotion that night. They were supervised by HJY promotions staff Steve Scarpetti and Jeremy Gately. The Budweiser salesman chatted with the fresh-faced kids from WHJY, handed them hats and shirts to distribute, and prepped Gonsalves on what to say about Day-Fresh beer. Trudeau also gave Dr. Metal his \$200 check.

When Trip's set ended around 10:30, Gonsalves took to the stage with Scarpetti, McGinn, and Clark. Jill Malinowski remained near the horseshoe bar. As promised, the radio team pumped up the crowd for Great White, urged them to drink more Budweiser, and threw promotional junk at grasping hands. Had Dr. Metal glanced around him, he would have seen Great White manager Dan Biechele working in the shadows, setting up the special effects that Gonsalves and Jack Russell had discussed on-air the night before.

On the floor at center stage, just in front of the drum alcove, Biechele placed a wooden board onto which he had affixed four metal broom clips. Into each clip he snapped a single cardboard tube, about the size of a Cuban cigar. Each tube bore a label, "PYROPAK® 15 × 15." They were gerbs. And they would prove Biechele's undoing.

A gerb is a pyrotechnic device that produces a dense plume of sparks with little or no post-burn ash. Each is rated with two numbers — a burn time and a clearance height. Biechele's 15 × 15 gerbs were rated to burn for fifteen seconds and throw a spark plume fifteen feet high.

Each spark from a gerb is literally a burning fleck of metal, carefully size-screened to burn out before reaching the floor. But if the sparks contact a dry, flammable material — like non-flame-retardant packing foam — before reaching the floor, they can ignite that material. A hand placed in the stream of sparks a few feet from the gerb might feel lightly peppered, as by sparks thrown from a grinding wheel; however, moisture in the skin prevents any burn. For this reason, the devices are incorrectly thought by some to emit "cool sparks." But sparks are sparks.

Michael Jackson learned this painful lesson in 1984 while filming a Pepsi commercial. Sparks from a prematurely fired gerb ignited the showman's heavily

pomaded locks, searing his scalp before assistants noticed the fire and beat it out. Frightening images of that incident appeared on the Internet for years thereafter.

At The Station, Biechele pointed two of his gerbs straight upward; the other two, to either side at a forty-five-degree angle. His intended effect was a fan of sparks fifteen feet high and thirty feet wide, lasting fifteen seconds. His actual effect would be much longer lasting.

Each Pyropak gerb had a black plastic cap on its upper end, covering a round hole formed by a clay “choke” designed to concentrate the gerb’s spark plume. Through each cap Biechele carefully inserted an incendiary-coated wire loop called an electric match. When electricity passes through it, the loop becomes a red-hot short, igniting its chemical coating and, instantly, the gerb itself. Great White’s manager ganged the eight electric match leads, four and four, and connected the two wire bundles to a microphone-type cable, which he ran just offstage to a battery. When connected to both battery terminals, the gerbs, like model rocket engines, would ignite and burn until they exhausted themselves. There was no putting them out.

Rhode Island law, like that of most states, requires that fireworks of the type used by Great White be operated only by licensed pyrotechnicians. The fire code mandates that licensed pyro operators pass a safety examination, carry insurance, and keep fire extinguishers at the ready whenever fireworks are set off. The code also requires that anyone planning a pyro display obtain a permit from the town’s fire marshal after submitting a stage plot, effects list, and proof of licensure and insurance. Applicants for a permit must also be prepared to conduct a preshow pyro demonstration for the fire marshal.

Biechele was neither trained nor licensed. He, Jack Russell, and the Derderians simply ignored all the pyro requirements.

Plans for Great White’s show had not always been so flashy, or so dangerous. In the weeks before Great White’s tour departure, Biechele corresponded with Randy Bast of High-Tech Special Effects in Memphis, Tennessee, from whom he had bought pyro for the 2000 W.A.S.P. tour. When Bast learned that Great White would be playing small venues, he urged Biechele to rent special effects like confetti spreaders, snow machines, bubble machines, and fog machines, none of which involved fire. But a fogger cost \$350 a week, plus fluid; bubble or snow machines, \$100 apiece per week, plus fluid. That could run \$600 a week. And look wussy, to boot. Great White was heavy metal.

By contrast, a gerb was \$12.60, and each electric match, \$1.56. Pyro for a week of four concerts (four gerbs at the beginning of each concert, three at the end) would run \$396.48, total. The calculation was easy. Just as long as safety was assigned no value.

Biechele did, however, rent one confetti spreader for Great White’s tour. Originally used to distribute grain in feedlots, these machines blow vast quantities of confetti from a spinning drum. But Biechele’s confetti machine did not make an appearance at

Great White's Station gig.

About a year earlier, Paul Vanner had painstakingly cleaned confetti from his speakers after a national act had blown it all over the club.

"What's up with this?" Jeff Derderian had inquired.

Vanner explained, "Jeff, we can eliminate this one way. Don't ever allow it. 'Cause I'm gonna start charging you money to come down here and clean these things out. You know, there's six monitors here," continued Vanner. "It's gonna take me three, four hours, to do them, you know. If you give me a hundred bucks, I'll come down and do it and then you can have all the confetti you want. You don't want to give me a hundred bucks? Then, don't have any confetti in the club."

Derderian needed no further convincing. From that day forward, through Great White's final appearance, he enforced an ironclad rule: No confetti at The Station.

Pyro, sure. Just no confetti.

CHAPTER 9

FILM AT ELEVEN

THE MONTH OF FEBRUARY 2003 was not a good one for nightclub-goers. In the early morning hours of February 17, an overcrowded club on Chicago's South Side called E2 was the scene of twenty-one deaths when someone (a club security guard was suspected) discharged pepper spray on the second-floor dance floor to break up a fight between two women. A panicked crowd surged to the only exit it knew — at the head of a steep flight of stairs descending to street level. The force of the crowd pushed victims down the stairs, where they piled up ceiling-high at the bottom. The dead were crushed and asphyxiated, their bodies stacked and faces contorted against the glass doors to the street.

It was this tragic event that prompted Rhode Island state fire marshal Jesse Owens to tell a reporter the day before the Station fire, "It's very unlikely something like that would happen here."

When Great White took the stage at 11:05 p.m. on February 20, an unprecedented audio-visual recording memorialized the event. The coincidence of Chicago's tragedy three days earlier and a TV reporter, Jeff Derderian, owning The Station, resulted in the presence of a professional news photographer at The Station, filming a walk-through of the venue, then Great White's appearance.

Jeff Derderian, who had begun his TV career at Channel 6 in Providence, then worked at Boston's WHDH, had just returned to Rhode Island, where he started reporting for WPRI-TV Channel 12. His first day at Channel 12 was the day of the Chicago club trampling. Derderian figured that a story on nightclub safety would be newsworthy in the wake of the Chicago tragedy, and what better place to shoot generic nightclub footage than his own club, The Station? So, around 10:40 on the night of the Great White concert, WPRI cameraman Brian Butler, driving the station's SUV, passed soon-to-be club owner Michael O'Connor's car traveling in the opposite direction and pulled into The Station's parking lot. Butler hefted his broadcast-quality digital video camera into the club, where Jeff Derderian set him up with bouncer Tracy King to act as his guide and crowd "icebreaker." Clad in black T-shirt and black vest, with shaven head and brilliant smile, the house-size King parted the crowd and played host to Butler's camera as it roamed each quadrant of the club, gathering footage of both crowd and venue. At times, King's six-foot-two, three-hundred-pound

body obscures all else in the frame. Watching the video, one feels like a slow-motion running back, following his lead blocker through crowds of opposing tacklers. But the opponents all wear smiles. And heavy-metal T-shirts.

Early in his tour, Butler stepped onto the club's stage, camera on shoulder. He dearly wanted to get three or four seconds of usable "B-roll" (background) footage of the crowd from a performer's vantage point. The only problem was the gestures flashed by the hyper-excited crowd. Most on the video give the two-fingered "devil's horns" sign associated with heavy-metal bands; some spoil Butler's shot with a single finger. All are pumped to the max by beer, Dr. Metal's between-set giveaways, and the crescendo of recorded music blaring through the club's speakers.

As Butler's camera pans stage left, it stops just short of where Dan Biechele was standing while he inserted electric matches into the plastic caps of four gerbs. A few feet behind him, also out of camera range, stood Jeff Derderian, whom Biechele asked for the balance of \$2,500 due before Great White took the stage. Bespeaking a cash flow dependent upon the real-time status of ticket and liquor sales, Derderian told Biechele, "I'll have it for you in a little while." Biechele was used to venues operated on a shoestring.

As Butler's camera traverses the dance floor, it captures male patrons in leather vests and tank tops. Women wear summer tube tops in deference to the club's cumulative body heat. Everyone holds a drink — some, two. Smokers abound. Two patrons, standing near the apron of the stage, sport "Jack Russell 'For You' Tour" shirts, apparent leftovers from his abortive solo album tour. Others wear Budweiser caps recently thrown from the stage by Dr. Metal and his *WHY* associates.

At the monitor mixing board stands Paul Vanner, The Station's soundman. Craggy-faced and bearded, with shoulder-length black hair and sunken eyes, Vanner wears a shirt emblazoned with the name "Human Clay," the band for which his friend "Grimace" Davidson had recently set off pyrotechnic gerbs at the club. He urges the cameraman to speak into a nearby microphone. Beer-fueled patrons taunt Butler, "Hey, film me, man!" "We're on TV, man!"

Tracy King stops at the thirty-two-channel club sound mixer, kidding a fellow bouncer about the complex, pretuned system. "Stand up here and make believe you know what you're doing, like I am," urges King, smiling. "Move a switch — I dare you!" A few seconds later, Gina Gauvin strolls through the shot, natural red mane flowing across her black-clad shoulders and pale skin. The mood of anticipation is palpable.

King then leads Butler's camera to the back bar, which is attended by Julie Mellini, Paul Vanner's roommate from years past. Mellini's waist-length brown hair cascades over her three-quarter-sleeve blue top. She can't resist playfully sticking her tongue out at Butler's camera. High-test silliness is flowing tonight, as much as Budweiser.

A string of low-voltage lights forms a rectangle on the ceiling above the back bar.

Below them a glowing Anheuser-Busch eagle spreads its wings over the bar's rear wall, next to a neon Marlboro longhorn: West Warwick meets Old West. Alongside the wall-mounted remnants of a smashed electric guitar from a previous concert, a clock face rimmed in blue neon hangs. Its hands point to 10:45.

Shot girl Rena Gershelis passes before Butler's lens, her tray of test tubes containing rainbow-colored liquids held head-high. Shining pink lipstick, wide-set model's eyes, and frosted tresses complete the picture. She flashes a too-wide grin, mugging for the camera. No one can stay serious on such an upbeat night.

Bouncer King parts the crowd further, leading Butler into the club's dart room, where doors to the back storeroom are flanked by autographs of the rock band the Fixx. Through one storeroom door emerges bar-back Michael Jandron carrying a case of beer to replenish Julie Mellini's stock. By prearrangement, Butler "chases" him through the crowd, creating a high-energy, almost frenzied visual effect. In so doing, his camera sweeps briefly past the door to the kitchen, inside which the viewer catches a glimpse of that room's well-hidden exit door. Briefly visible at Mellini's back bar is a red wall-mounted fire extinguisher, a good sixty feet — and hundreds of patrons — between it and the stage.

Later in the tape, Butler's camera rounds the corner behind the ticket desk, entering the main horseshoe bar area. A basketball game plays on the corner TV, below which the youthful radio station interns gather, clad in black hooded sweatshirts with oval "HJY" logos on the front. The kids appear perfectly relaxed.

Butler's camera sweeps over the horseshoe bar's front windows. All three have neon beer signs — Bud Light, Miller Light, Coors — blocking their upper halves. A large metal Molson Canadian sign adorns the bar's back wall, and a string of low-voltage lights mimics the back bar's ceiling halo.

Tending the main bar on this, her thirtieth birthday, is Dina DeMaio. She wears a translucent coral chiffon top with matching hair band — more conservative and elegant than any of her patrons. With her prominent cheekbones and perfect smile, it's easy to see why Dina is at the main bar. She's an attraction in herself. Checking on a couple seated before her, she asks, in typical Rhode Island waitress-ese, "You guys all set?"

DeMaio, the single mother of a seven-year-old son, was nothing if not industrious. First in her family to graduate from college, she worked full-time as a legal secretary while studying to become a paralegal. Dina began working odd nights at The Station three months earlier to make some extra money for herself and her son.

As Butler's camera pans left, it captures Jack Russell's guest-list acquaintances from Denny's: Rick Sanetti, his wife, Patty, and their young niece, Bridget. Bridget's blond hair falls midshoulder over her light-blue rib-knit top. A black leather bag is slung over her right shoulder. As the twenty-five-year-old gestures to her aunt and uncle, her silver hoop earrings sparkle beneath fine wisps of hair.

Butler's video passes the Sanetti party, then zooms in on the beer taps as crew-cut club manager Kevin Beese, wearing a black "EVENT SECURITY" T-shirt, draws beer into a large plastic cup. Beese sacrifices as much beer to spilled "head" as he leaves in the cup. Before the camera leaves the main bar, its focus settles on an exit sign above the area's single outside door, then, returning to the polished surface of the bar itself, it zooms in on the watch-clad wrist of a man stirring his drink. The timepiece reads "10:50." In the background audio, one can hear Dr. Metal launching into his introductory spiel for the featured act: "We're back . . . we're fuckin' back."

Before returning to the stage and dance floor, Butler walks his camera toward the ticket counter attended by blond, smiling Andrea Mancini. Her husband, Steven, had finished his set with the local band Fathead an hour or so earlier and is helping check IDs. Mancini's bandanna-clad bandmate, Tom Conte, and Conte's girlfriend, Kristen Arruda, are relaxing near Andrea's desk. A West Warwick policeman, Anthony Bettencourt, stands beside the ticket desk in uniform shirt, radio microphone clipped to the epaulet on his left shoulder. Hired as a "private detail" by the Derderians, Bettencourt is supposed to project a police presence and maintain order. At his side is another town cop, Mark Knott, seen in profile in his Gore-Tex patrol jacket with an American flag patch on the right shoulder. Knott was on routine patrol that night and stopped in to assist Bettencourt's rock 'n' roll detail with a "security check" — just in time for the main act.

On the wall behind Andrea Mancini hangs a framed photograph of the Beatles in profile, circa 1970; a crudely block-lettered sign on her desk announces, "TONIGHT GREAT WHITE, TRIP, FATHEAD \$17." The wood-paneled partition dividing Andrea's diagonal ticket desk from the entrance corridor (leaving only a thirty-three-inch opening through which patrons are admitted) is formidable — almost chest-high.

Butler's video documents the following pertinent history: At 11 p.m., Great White's soundman Bob Rager cues a CD of prerecorded Great White music. As its volume builds, the band's instrumentalists take their positions on the darkened stage: drummer Eric Powers in an unbuttoned gold metallic shirt; rhythm guitarist Ty Longley with shoulder-length brown curls flowing over his black vest; bass guitarist David Filice wearing a long-sleeve black shirt; and lead guitarist Mark Kendall with shaved head and sunglasses. At 11:04, Station light man Scooter Stone "bumps" the stage lights, creating a strobelike flash at random intervals, as he had been instructed by Great White manager Dan Biechele. (Biechele had explained to Stone in a preconcert briefing that pyro would be ignited soon thereafter, at which time Stone was to bring up full stage lights.)

At 11:05, guitar feedback signals the entrance of Jack Russell, who bounds onstage, wireless microphone in hand. Great White slams into the opening chords of "Desert Moon," and Dan Biechele touches the second of two wires to a battery terminal.

Brian Butler, standing four rows back in the crowd, shoots video straight at the

stage. His tape shows four pyrotechnic gerbs set off from the floor at center stage just in front of Powers's drum alcove. Initially, the gerbs' intensity produces a video whiteout. The camera's iris takes a moment to adjust to the glare, but within five seconds of the gerbs' ignition, small flames are visible on the foam-covered front corners of the drummer's alcove where sparks from the gerbs have struck them. The flames, no larger than candles, start about five feet up the walls.

At fifteen seconds post-ignition, the gerbs cease sparking, as designed. Butler swings the camera to his right, revealing the closed stage door and a darkened exit sign above it. Just three seconds later, the flames on the corners of the drummer's alcove, previously candle size, are now over a foot high.

At twenty seconds, David Filice is seen staring at two-foot-high flames to stage left. The foam at stage right is now being consumed by twin two-foot tongues of flame, which Ty Longley notices for the first time. Kendall and Russell remain unaware, strutting and playing on as flames race above the lintel of the drummer's alcove and onto the upper proscenium arch.

At twenty-three seconds, the video shows flames licking up inside the ceiling of the drummer's alcove and leaping up the proscenium arch. Much of the crowd remains transfixed, still gesturing in "devil's horns" fashion. However, one redheaded female in the front row clutches both hands to her head in dismay. She is among the first to appreciate that flaming walls are not part of the show. Over the next half minute the crowd's demeanor will shift from festive, to curious, to terror-stricken.

At twenty-five seconds post-ignition, Butler's video clearly shows flames consuming the egg-crate foam three feet above the drummer's alcove lintel. Filice looks back intently at drummer Powers, willing him to abandon his post in the alcove. Kendall and Russell remain oblivious of the growing peril.

Twenty-six seconds after ignition of the gerbs, smoke fills the cathedral ceiling area over the dance floor and begins to billow beneath the dropped ceiling into the remainder of the club. Butler starts moving with his camera toward the main door.

At twenty-eight seconds, formal-wear salesman and amateur bodybuilder Joe Kinan is seen on Butler's tape turning to his longtime buddy, Karla Bagtaz. He wheels to his left toward the main door with Karla at his side. In a few seconds Kinan will take off his leather vest and wrap it around his friend to protect her.

At the thirty-six-second mark, Butler's camera is near the ticket booth, shooting straight toward the stage and its door. The stage door is now wide open, an exterior light illuminating the frigid blackness beyond. Great White suddenly stops playing. Russell finally notices the flames engulfing the west wall and utters his last words of the concert: "Wow. That's not good." A master of understatement, Russell.

Forty-one seconds after Biechele ignited his pyro, Russell and Kendall are still seen onstage, Russell ineffectually splashing one wall with a water bottle. Fifty seconds after ignition, the building's fire alarm is triggered, sounding a piercing horn and

illuminating strobes around the club. At fifty-seven seconds, Dan Biechele, who had run offstage looking for an extinguisher, jumps back onstage briefly. Butler's camera, always facing the stage, appears to stop in one location for eight to ten seconds, during which pause Erin Pucino, the Derderians' long-suffering gas-station clerk, can be seen attempting to get past the cameraman toward the door, her face contorted in the expression of Edvard Munch's *The Scream*. Butler's camera thereafter moves past the ticket desk and out the front doors in a wave of escaping patrons.

When Brian Butler exited through the front doors he was trailed by thickening, head-level smoke and a throng of increasingly concerned patrons. A few yards behind him in the pack, Erin Pucino was no longer moving of her own volition but, rather, as part of a viscous flow of bodies squeezing between Andrea Mancini's angled ticket counter partition and its opposing wall. As the smoke changed in seconds from gray to black, people inside the club believed that all lighting had suddenly been switched off. In fact, the smoke from the burning hydrocarbon-based plastic foam was so perfectly opaque that no light from the ceiling fixtures could penetrate it. The lights remained on. They simply could not be seen from twelve inches away.

With the force of surging bodies behind her completely offset by the resistance of those in front of her, Pucino floated suspended in an inky cauldron, where collective fear increased exponentially with each degree of rising heat. It occurred to her that leaving the club would not just be difficult. It could well be impossible.

CHAPTER 10

THIS WAY OUT

WEST WARWICK PATROLMAN MARK KNOTT had been standing by the ticket counter with fellow officer Anthony Bettencourt when Great White took the stage. Just as the band launched into its opening song, Knott's radio crackled: he was needed at a domestic disturbance elsewhere in town. The officer responded by heading out The Station's double front doors.

Knott paused on the concrete landing outside, bracing himself against the bitter February chill, when his radio picked up Bettencourt's voice from inside the club. "The Station's on fire," radioed his colleague with surprising calm. Knott turned and reopened the front doors, where he was met by a human tide that bowled him back out the doors, over the railing of the club's steps and onto the hood of a car below. Seconds later he managed to key his radio microphone and shout the word, "Stampede!"

There were myriad reasons why people found themselves inside The Station when the firestorm was unleashed. Some, like Fairfield Inn housekeepers Tina Ayer and Jackie Bernard, had made their way onto Jack Russell's guest list through happenstance. Others, like Steve Mancini, Keith Mancini, Tom Conte, and Al Prudhomme, were members of an opening band, Fathead. Still others, like Steve's wife, Andrea, who worked the club's ticket desk, were earning a night's pay. But most were simply there to hear Great White and have a good time.

Whatever different plans they may have had in entering the club that night, most shared the same idea when it came to leaving it in a hurry. They headed for the door they'd come in by — the front entrance. For some it would prove their deliverance; for others, a most unfortunate decision.

Al and Charlene Prudhomme were Station regulars. Fathead's drummer Al had played at the club for ten years and once even considered buying The Station from Howard Julian, until Charlene vetoed the idea. The night of Great White's appearance, Fathead was the first of three bands to play. During the second band's set, Prudhomme stood with bouncer Scott Vieira near the band room and the stage door to the right of the stage.

As Trip struck its set-up and Great White prepared to take the stage, Charlene Prudhomme found her husband down front near the speakers through which recorded music was blaring. "I love you and all, but after seventeen years of your music, I just

can't take the noise down here," she shouted in his ear. "I'm standing near the back." And with that she made her way through the dense crowd (Charlene hated the feeling of people pressing at her back) to the area adjacent to Andrea Mancini's ticket desk, alongside Patrolman Bettencourt, where she remained standing until Great White's show. Charlene knew Andrea well because their husbands played together in Fathead.

Seconds after Great White's gerbs ignited, Charlene noticed orange on the wall behind their white sparkles. She grabbed the policeman's arm and said, "That's a fire." Bettencourt didn't hear her at first and just smiled back. She stepped to her right, into the space between Andrea's ticket desk and its opposite wall, at which point Bettencourt grabbed her arm and shouted, "It is a fire," then turned to radio his request for help.

At that moment, Jeff Derderian ran from the main bar through the entrance area in front of Andrea's desk, pushing Charlene toward the outside doors and heading toward the stage. Charlene had little serious concern even then, wondering if she might later go back inside to get her coat, or help Al remove his band gear. She passed through the single swinging door within the entrance corridor, then flattened herself against the wall to courteously hold the inside door open for the stream of exiting patrons. Like her husband, Charlene Prudhomme saw herself as unpaid club staff as much as patron.

Within seconds of Great White's pyrotechnic ignition, Al Prudhomme, too, appreciated that something was very wrong. From his vantage point near the stage door he could clearly see the foam catch fire. As orange flame crept up both sides of the drummer's alcove, Prudhomme turned back into the club, searching for his wife and his bandmates. Prudhomme thought, "I'm not going to get through this crowd to them" and bolted out the band door. Because he was "band," he not only knew the door's location, but exited through it without challenge. Prudhomme cut to his right around the corner of the building and sprinted for the front doors, falling on the parking lot's ice. He leapt to his feet and charged up the club's front steps where people were exiting briskly, but not fast enough for him. Prudhomme began swimming against the human tide, grabbing arms, pulling them past him through thickening smoke and yelling for them to "get the fuck out, get out, get out!" so that he could enter to find his wife. The sixth arm that he grabbed was the right one — Charlene's. He pulled her from her inside door-holding post, down to the parking lot and away from the building to safety. When Charlene started to wander in bewilderment, Al yelled, "Don't move!" He was terrified of losing her again. Later he would enfold her in his arms and tell her not to look at the scene of developing horror.

Jack Russell's motel housekeeper guests, Tina Ayer and Jackie Bernard, were close to the stage when Great White's act began. Neither had been to The Station before, and neither knew any exit other than the front doors through which they had entered. When tongues of fire began to lick up the walls on either side of the drummer's

alcove and smoke billowed across the ceiling, the women turned to press toward the front door, Jackie in the lead. They could hear a distinct crackling sound above them as low-density, open-cell polyurethane foam on the ceiling burst into flame. Jackie clutched Tina's jacket in the enveloping smoke, but the crush of the crowd peeled Tina from her grip. Jackie made it out the front door, part of the swarm of burning-eyed, stumbling escapees, and began to search frantically for Tina in the parking lot.

Tom Conte and his girlfriend, Kristen Arruda, were standing near Andrea Mancini's ticket counter with Steve Mancini and his cousin, Keith Mancini (Fathead's remaining member) when the walls ignited. Within seconds, Andrea passed a fire extinguisher from behind her chair to her husband, Steve, who rushed with it toward the stage past Kristen Arruda and Patrolman Bettencourt. Keith Mancini similarly waded in against the flow, shouting to Conte that he "had to get his jacket."

As the crowd pressed Tom Conte and Kristen Arruda into the front hallway past Andrea Mancini's desk, Conte became increasingly fearful for Andrea, reaching toward her and yelling for her to climb over the ticket counter. Andrea responded that too many people were crowded into the narrow hallway — that there was simply no room for her on the other side of the desk. The force of the crowd pushed Conte and Arruda past Andrea's position, through the front hallway and out the front doors. With smoke burning their eyes and the crowd pressing behind them, neither Tom Conte nor Kristen Arruda was able to turn and see if Andrea had escaped her prison behind the counter. Both were terrified for her.

Redheaded Gina Gauvin was one of those who just came to the club to hear the featured act. She didn't have to wait long at all. Arriving alone after a busy day, she had just enough time to grab a Peach Tree and pineapple juice from the bar and work her way down front when Dan Biechele touched off the pyro. Gauvin headed for the main door — the only one she knew — as soon as she saw flames race up the foam. It was, in her words, "like lighting tissue paper or hay."

Gauvin stole a glance back on her way to the door to see the entire west wall engulfed and flames extending ten feet up the sloped ceiling. She heard the hiss and pop of fire consuming the foam above the dance floor. Soon, all light was obscured by the smoke, and Gina navigated in darkness, pressed toward the door as much by the crowd as by any sense of direction. The crush was so great that Gauvin could not have gone back to try another route had she wanted to. As she made her way down the slightly inclined hallway to the front doors, Gina felt the crowd tip forward like a breaking wave. She was carried over its crest, as if body surfing, then driven under its surface. When all movement in the human tide ceased, her head and arms extended out The Station's front doors, but her torso and legs remained pinned in the vise-grip of the scrum. Escape was out of the question. She could only look up at the winter moon and wonder whether rescue would arrive before the flames. Two lungfuls of carbonaceous, superheated smoke later, Gauvin lost consciousness.

John Fairbairn and his wife, Andrea, had arranged babysitting for their five children and come to The Station determined to get their money's worth by seeing all three bands on the bill. The Fairbairns watched Fathead and Trip from near the stage, but as Great White prepared to go on, and the crowd pressed in, Andrea became claustrophobic and insisted they move back toward the club's front door. John Fairbairn wisely demurred to his wife of many years. He had bought her drinks, remaining the couple's designated driver. "When I go out, I don't drink at a bar. I drink at home," Fairbairn explained with a touch of blue-collar chivalry. "When I take my wife out, I let her do all the drinking because she deals with the kids all day."

As the Fairbairns made their way toward the door amid thickening smoke and rising panic, they witnessed a man, about five-foot-seven and over 250 pounds ("but carrying his weight well," according to John) knocking people aside as he bulled his way to the exit. With short black hair and sideburns "joining in a pointy goatee," this "mean-looking, leather-jacketed" guy swung his shoulders from side to side, knifing through the crowd like a fullback. He got by the couple and out the sloping front corridor. Shortly thereafter, people in front of the Fairbairns slowed and began to tip "like dominoes," in Fairbairn's words. John and Andrea tipped with them. They simply had no choice.

Raul "Mike" Vargas, thirty-one, had come to The Station early that night alone, leaving his wife, Melanie, at home with their ten-year-old son, Bryan. The manager of a General Nutrition Center store at which Steve and Andrea Mancini were regular customers, Vargas had seen Great White six times before and even had autographs and guitar picks from Mark Kendall. He was into Great White's music, but not the club scene. Athletic and health-conscious, Vargas neither smoked nor drank. But he enjoyed Great White's showmanship and arrived early — around 7:30 — for the concert.

He must have figured it was worth the wait to get a spot right down in front of the stage. And down front was where Vargas stood, about five feet from Jack Russell, when the pyro went off. He had to have seen Russell ineffectually splashing his water bottle at the growing flames. As flames fanned out along the entire west wall and across the club's ceiling, Vargas turned and pressed toward the club's main exit. He was seen encouraging others and bending low to help them if they tripped in front of him. But after Raul Vargas got past Andrea Mancini's ticket counter and into the entrance corridor, no one saw him move any farther.

Tribute band Human Clay was represented in the crowd by its lead singer, Michael Kaczmarczyk. He was there to see Great White with his girlfriend, Lisa DelSesto, and Lisa's twin sister, Cara. According to Kaczmarczyk, when he first saw flames consuming the egg-crate foam behind the band, "I put my beer down and grabbed the twins." A good call. All three made it out the front door unharmed.

One minute post-ignition, the Prudhommes, Jackie Bernard, Tom Conte's duo, and

the Kaczmarczyk trio stood in The Station's parking lot looking back at the building from which they had just escaped. A few ran back to help. Those outside shouted frantically for missing friends, over screams rising from within. All around, desperate people pulled out those millennial personal tracking devices — cell phones — to speed-dial the missing. At that point, the whereabouts of Steve, Andrea, and Keith Mancini, John and Andrea Fairbairn, Gina Gauvin, Tina Ayer, and Raul Vargas — and many, many others — were unknown.

Earlier on, after the pyro ignited the foam on The Station's walls, the club's fire alarm system was triggered, either by the heat or by light tech Scooter Stone's pulling an alarm box at the light board. A piercing horn sounded, well after Great White had stopped playing, with flames towering behind them. Had there been automatic fire sprinklers, as required in all modern places of public assembly, they also would have been activated by the rising heat, spraying ceiling and walls with high-pressure water and likely knocking down the fire before it picked up freight-train pace and intensity. Without them, however, patrons who did not escape The Station within ninety seconds of ignition stood little chance of survival.

CHAPTER 11

CAUSE FOR ALARM

WE'VE ALL GAZED UPWARD IN PUBLIC SPACES to contemplate those little inverted metal rosettes that dot the ceiling at regular intervals — fire sprinklers. New or old, most utilize the elegantly simple design of multiple sprinkler heads, affixed to a constantly charged water line. Each sprinkler head has its own heat-activated trigger (a fusible metal link or liquid-filled glass vial designed to break at a predetermined temperature), so that all heads in the area of a fire, and only those heads, will be activated.

Fire sprinklers were not originally calculated to save lives; rather, they arose from a purely mercantile desire to preserve the huge “manufactories” and warehouses that were the great engines of the Industrial Revolution. However, more recent history demonstrates their life-saving potential in situations where seconds may be critical to crowd evacuation. One prime example was a fire at the Fine Line Music Café in Minneapolis, Minnesota, just three nights before Great White’s 2003 appearance at The Station. The similarities — and different outcomes — of the two fires are striking.

The Fine Line club opened in 1987 in the restored century-old Consortium Building in Minneapolis’ Warehouse District. It was a well-maintained two-tier performing space with a legal capacity of 720 patrons. At about 7:05 p.m. on February 17, 2003, an obscure opening band from Seattle, Jet City Fix, illegally ignited pyrotechnics that struck the club’s ceiling, setting it afire. Automatic sprinklers on the ceiling activated, quelling the blaze. When firemen arrived, all 120 club patrons had already been evacuated by the club’s staff without injury. The fire was completely extinguished in fifteen minutes, and the club reopened a month later after repairing about \$100,000 worth of smoke and water damage. Automatic sprinklers at the Fine Line were a critical factor in averting a Station-like tragedy there.

Over the course of their development, fire sprinklers were not always automatic, and not always effective. One early attempt envisioned a large cask of water in which another cask of gunpowder, with a trailing fuse, was suspended. The principle was that a fire would ignite the fuse, causing the gunpowder to explode and, along with it, the cask of water. Perhaps it was the flying cask shrapnel that gave pause, but the idea never really caught on.

Late in the eighteenth century, at the dawn of the Industrial Revolution, English

factory and mill owners were the first to experiment with installing manually operated sprinkler systems. These devices consisted of multiple perforated pipes fed by a main riser, which was charged with water by a worker manually opening a valve in response to a fire. They were reasonably effective in dousing fires; however, damage to an entire floor or an entire building (and to its contents) from water could exceed the potential damage from fire. In short, these early systems were dependent upon human intervention for triggering, and they were nonselective in their application, wasting a vast amount of water where it was not needed and damaging valuable goods and property that might not have been in peril.

In 1806, Englishman John Carey had a slightly better idea. He devised a system of water pipes with several ceiling valves held closed by counterweights attached to strings. When flames burned through a string, its counterweight was released, opening the valve, releasing the water and extinguishing the fire. It addressed the problem of wasteful and potentially damaging deluges; however, its crude reliance on burning strings and falling weights made for inconsistent performance (and, perhaps, stronger firemen's helmets). What was needed was a truly automatic sprinkler system that would reliably discharge water, unattended, on only the area of the fire. Again, economic calculation became the midwife, if not the mother, of invention.

Henry S. Parmelee was the president of the Mathusek Piano Works in New Haven, Connecticut. In the 1870s, insurance rates for factories were exorbitant due to the toll exacted by fires, which, once begun, more often than not consumed entire buildings. Parmelee addressed the problem by developing and installing in his piano works the first closed-head fire sprinkler, which he patented and called "the automatic fire extinguisher." The Parmelee sprinkler head had a sealed orifice designed to open with sufficient heat. He understood that the only way to cost-justify his system would be to convince insurers that a factory using his system deserved lower premiums, an underwriting principle that has survived to the present. Parmelee's sprinkler head, while a vast improvement over string-suspended counterweights, lacked sufficient sensitivity to trigger early in a conflagration, because its fusible seal remained in direct contact with cool water in the pipe.

It is no small irony for the victims of the Station fire that the first practical automatic sprinkler head was developed ten miles to the club's north in Providence, Rhode Island, by Frederick Grinnell. In 1881, Grinnell, who had been manufacturing Parmelee's system for him, designed and patented a more effective version that became known as the Grinnell sprinkler. Its design removed the heat-fusible link from all contact with water in the system, greatly increasing its sensitivity. Featuring the same round, tooth-edged deflector seen on sprinkler heads today, the Grinnell sprinkler design became, and remains, the standard for modern "wet-pipe" fire suppression systems.

Why, then, wasn't this Rhode Island-born boon to fire safety installed at The

Station? After all, in 2003, the state building code, modeled on the National Fire Protection Association's (NFPA) Life Safety Code, required sprinklers in all places of public assembly occupied by more than three hundred people. On its face, the law would seem to have mandated sprinklers at the nightclub.

The answer lies in a legislative device known as “grandfathering,” a deceptively benign-sounding term. What grandfathering meant in the context of The Station is that buildings constructed before the effective date of the sprinkler requirement were exempt from it unless they had undergone a “change in use or occupancy.” The building at 211 Cowesett Avenue had seen use as a sit-down restaurant with a legal capacity of 161, then a bar with a capacity of 225, and, ultimately, a concert venue that Fire Marshal Denis Larocque certified in March 2000 as fit for 404 screaming, shoulder-to-shoulder rock fans. Neither Larocque nor anyone else in authority seemed to consider this evolution a “change in use or occupancy.”

Common sense would suggest that there had been a change in use requiring sprinklers; however, economics always trumped safety at The Station. A sprinkler system for the club would have cost only \$39,000 — the exact sum of the two deposits taken by the Derderians from would-be club purchasers Armando Machado and Michael O'Connor, and far less than the \$65,000 they spent on The Station's sound system. Like confetti machines, however, sprinklers would not be found at The Station on the Derderians' watch.

Whether sprinklers would have saved every life lost at The Station is debatable; what is certain is that they would have greatly reduced the carnage there. The National Institute of Standards and Technology (NIST), an agency of the federal government charged with investigating manmade disasters and making recommendations for regulatory changes, investigated the Station fire. NIST scientists produced computer simulations and full-scale mock-ups of the fire, both with and without sprinklers. The non-sprinklered model tracked the fire's progress approximately as seen in Brian Butler's video, with temperatures exceeding 1,000°C (1830°F) in the dance floor area and 500°C (930°F) in the main bar area in less than two minutes. In the model with sprinklers, the fire was extinguished within two minutes, and conditions within the building remained survivable at all times.

While fire *suppression* may keep conditions tenable, allowing escape, fire *detection* can still play a role in hastening evacuation, particularly from places of public assembly. This is because, even if a fire develops in plain sight of an assembled crowd, human behavioral factors can “freeze” victims for critical seconds while they remain oblivious of their peril.

The late Guylene Proulx, who taught civil and environmental engineering at Carleton University in Ottawa, Ontario, studied crowd behavior in fires. She described a phenomenon called “commitment,” when people are confronted with fire in an entertainment venue. After watching the Brian Butler video of the Station fire,

Professor Proulx made the observation: “The people paid good money to hear the band, and they were going to continue watching, in denial of what they were seeing. Members of the public are very ill-prepared to judge the danger of fire. We just don’t have experience with anything but controlled fire in a fireplace or campsite setting. We have no idea how building fires can build exponentially in a matter of seconds.”

Proulx explained that people need to be roused from their state of commitment to an entertainment activity by fire alarms that trigger early and are unmistakable in their clarity. Ideally, all entertainment activity should cease and the crowd be focused on orderly evacuation. This is where detection systems prove their worth.

What fire detection existed at The Station at the time of the fire had been installed in 2000 when Howard Julian sold the club to the Derderians. At that time, West Warwick Fire Department director of communications John Pieczarek advised Joseph LaFontaine, a licensed alarm installer hired by Julian, as to what system features would be acceptable to the town. They included new heat detectors near the stage and several new pull stations around the club. The system remained, however, a “local” system, designed to warn occupants with a loud horn and flashing strobe lights, but not automatically call the fire department.

LaFontaine installed three heat detectors in the area of the stage. One, underneath the stage structure, was a rate-of-rise detector. It was designed to trigger when nearby temperatures rose several degrees within a ten-second period. The other two were fixed temperature detectors — one set for 195°F, located a foot from the peak of the ceiling above the stage, and another set for 135°F, on the ceiling of the drummer’s alcove. Fixed temperature detectors were installed on the two ceilings because rate-of-rise devices, while more sensitive, can be falsely triggered by powerful, heat-generating stage lights.

The Station’s alarm system had several “Pull in Case of Fire” boxes throughout the club. One was mounted at the sound/light board on the theory that the sound board would always be attended during a concert, and, in the event of an emergency, the sound system could be silenced and the alarm box pulled manually, much like the circa-1800 English system for perforated-pipe sprinklers in factories. That part of the system intended to eliminate the club’s major distraction, loud music, was, however, dependent upon human judgment and intervention, which are themselves susceptible to Professor Proulx’s “commitment” phenomenon.

When Dan Biechele set off the pyrotechnics at The Station, Bob Rager, Great White’s man at the sound board, had his head down and was concentrating on the mixing console. Rager didn’t notice the flaming walls until the music suddenly stopped and he looked up. Great White stopped playing thirty-six seconds post-ignition, causing the crowd for the first time to focus exclusively on the danger at hand. Club lighting technician Scooter Stone finally activated the pull box beside him no earlier than fifty seconds after the gerbs were first ignited. It remains unclear

whether the alarm was actually triggered by a heat detector or by Stone's action, although it is hard to believe that temperatures above the drummer's alcove and the stage had not earlier exceeded 135°F and 195°F, respectively. What is clear is that well over a half minute of evacuation time was lost to many whose escape window was only ninety seconds.

Whether a nightclub's staff responds immediately and properly to a fire emergency depends entirely upon its training. The Station's employees were given no instruction on how to respond to emergencies, despite the well-publicized deaths of twenty-one people at the E2 Club in Chicago just three days before Great White's appearance. Instead, Jeff Derderian's reaction to the Chicago tragedy was to shoot generic video at his own club so that he could narrate a sensationalized piece about nightclub safety.

Other clubs, however, responded more substantively to Chicago's wakeup call. Management of the Fine Line Café in Minneapolis reviewed safety procedures with its staff on February 17 in response to the deaths earlier that day in Chicago. When Jet City Fix's pyro ignited the Fine Line's ceiling that very evening, club staff immediately, and successfully, directed all patrons to the exits.

It didn't hurt that the Fine Line's crowd was well below its legal maximum when fire broke out. That was not the case at The Station. Whereas the Fine Line Café's management reviewed club capacity and drilled its employees in evacuation procedures, the Derderians' response to the Chicago deaths was to sell business cards and pieces of notebook paper when they ran out of printed tickets for the Great White concert. No cash patron was turned away from the door that night. As reconstructed by the *Providence Journal* from post-fire interviews, it is reliably believed that no fewer than 462 people were inside The Station (officially inflated capacity, 404) when fire broke out.

When Dan Biechele closed the circuit to his illegal pyro setup on the night of the fire, he could not have known the many hazards surrounding him: walls lined with "solid gasoline"; no sprinkler system; an overcrowded club with staff untrained in fire procedures. But even if some of those perils had been eliminated, it still would not have guaranteed people's safety. Because all had to exit quickly. And an exit is worthless if it's not known, if it's the *only one* known or, worse yet, if someone denies you its use. The Station had all three.

CHAPTER 12

I'M WITH THE BAND

MIKE IANNONE HAD COME TO THE STATION to see Great White, but also to support his friends whose band, Fathead, opened the evening. Mike, who had helped Fathead load-in on previous occasions, was very familiar with the club's layout, including the stage door on the right. He was also familiar with the use of pyrotechnics at the club, having walked out of a concert there in 2002 when a band called Rebellion used flashpots on either side of the stage.

So, the moment Great White ignited its four blinding-white 15 × 15 Pyropak gerbs in The Station at 11:05 p.m. on February 20, 2003, Mike Iannone knew he was out of there. By all accounts, he did everything right. He didn't even wait until he saw flames. He didn't stop to gather belongings. He didn't seek out friends to join him. He didn't remain "committed" to the entertainment he had paid to see. He didn't even head to the door he'd come in by. Rather, Iannone turned to the nearest exit he knew — the stage door.

The stage door at The Station had a history. One of the three exit doors counted by Fire Marshal Larocque in his capacity calculations for the club, it was the exit with one foam-covered, handleless, inward-swinging door and a second, outward-swinging door immediately behind it. The inner door was the one that club staff took down, then rehung, three years running after fire inspections cited it as a code violation. It was also the exit nearest to foam salesman Barry Warner's house.

From the Derderians' perspective, the stage exit posed two problems, both of which boiled down to economics. The exit's doors — both of them — had to remain closed when bands were playing; otherwise neighbors would shut the club down. Left unguarded, that exit could also admit nonpaying interlopers.

The Derderians solved both problems with a simple rule: the door would remain closed any time a band was playing. Between sets, when bands were loading in or out and recorded music was playing at much lower volume, the door could be used — by band personnel only. As to the door's function as an emergency exit — well, that might still be possible. If you were with the band.

Enforcement of the "band door" rule would be the province of the club's bouncers, some of whom were experienced and responsible. Others, however, were no more than undertrained and overbuilt club "regulars" who, as often as not, performed their

function for free beer and a chance to wear black EVENT SECURITY T-shirts and exercise authority over patrons. Apparently, “security” had a better ring to it than “barfly.” For this subgroup, training was necessarily kept simple. One rule sufficed: no one but “band” was allowed to use the stage door.

When Mike Iannone saw the pyrotechnics erupt, he sprinted for the stage door. As he neared the door, a bouncer grabbed his arm and barked, “Band only exit.” One forceful shove sent Iannone stumbling back into the crowd. As soon as he regained control of his feet, Mike headed toward the club’s front doors, soon to be joined by hundreds of others. The delay resulted in his getting as far as the front corridor, between the inner single door and the outside double doors, when people behind him lost their footing and toppled over onto him, trapping him in place. Iannone would not move from that location under his own power. By the time firemen extricated him, one of Mike’s hands, exposed to blowtorch-intensity heat, was burned beyond hope of salvage.

Fred Crisostomi, a painter, and his girlfriend, Gina Russo, a medical secretary, had called The Station at 10:20 that night to inquire if there were any more tickets available. Sure. Just come down. Ten minutes later, Andrea Mancini collected their cash (there were no “tickets” left), stamped their hands, and they were in. Fred and Gina bought drinks and worked their way to the apron of the stage just in time for Great White’s pyrotechnics.

They were among the first to appreciate the difference between fire and fireworks. Both immediately put their drinks on the stage and headed to their right. Crisostomi was familiar with the club’s layout and guided Gina to the stage door. A bouncer stood in front of the door, arms crossed, blocking the way. “This is for band members only,” he declared. “The club is on fire! Let us out! Open the door!” they screamed. The bouncer held his ground.

Gina knew they could not spend time arguing with him. She turned and headed toward the front door, with Fred pushing and shoving her through the crowd. Sounds of screams, breaking glass, and popping flames filled her ears. A “black rain” fell from the ceiling, setting people aflame. Gina’s sweatshirt, jeans, and Nike sneakers offered scant protection. She felt Fred’s hand in the middle of her back, shoving her toward the door, as he yelled, “Just go!” When all progress stopped in the front hallway and Gina toppled, there was no one underneath her as she hit the floor. She said a prayer for her two boys and passed out from the searing smoke. Eleven weeks later, when she emerged from a medically induced coma in a Boston hospital, Gina would learn that Fred Crisostomi had perished in the club. Russo herself sustained horrific burns to her head, torso, limbs, and lungs.

The Station's approach to providing concert security was somewhat ad hoc. The day of the fire, club manager Kevin Beese called up his buddy Scott Vieira to see if Scott wanted to help out as a bouncer for the Great White concert. Vieira had done it a few times before, for "a couple beers," and it beat hanging around the house — which was what he found himself doing quite a bit of, ever since 1994 when he injured his ankle in a workplace accident at a General Motors plant. Since then, he'd been on disability.

The Ocean State is, perhaps, the only one in which unemployment is described by an active verb, as in, "Wadda you doin'?" " 'I'm *collectin'*. " A disability pension is like hitting the Rhode Island unemployment jackpot. It is regarded by some with a mixture of envy and awe.

Vieira and his wife, Kelly, lived less than a mile from The Station. When Kelly dutifully went off to her work each day as a physical therapy assistant, she'd leave a job list for her husband. The list kept him "pretty busy," but after a while, Scott would get bored, what with "everybody being at work," and wander down to The Station to hang out with Kevin Beese and the club regulars. Afternoons, when Vieira was done working in his own yard, he'd head over to The Station. Most nights, by 5:30 he'd be at The Station's bar with fewer than a dozen others. When it snowed, the employment-disabled Vieira would help Beese shovel the walks and open the place up. Sometimes Vieira would carry cases of beer or buckets of ice around the club. Other days he'd help Beese take keg inventory in the basement. It wasn't a formal arrangement (as might appear on any employment or tax record), but more an unspoken one whereby Beese would occasionally draw Vieira a beer without charge — a performance bonus, of sorts.

Vieira's work at The Station may not have been formalized, but his status as a privileged "regular" certainly was. He was literally a card-carrying VIP, having been issued laminated ID cards attesting to that status by both Howard Julian and, later, the Derderians. It was not a membership he had to pay for. As Vieira explained, "It was just given to the regulars that were there all the time spending money on the off hours." Membership had its privileges. Vieira never paid a cover charge, and "regulars" paid a lower price for their drinks. "There was no reason to charge people at night if they're already paying their dues throughout the week sitting there keeping the business [going]," he observed.

On the afternoon of the Great White concert, Scott Vieira helped the band load in, rolling heavy cases across the frozen parking lot and into the building. He went home for dinner, then returned to the club at 7 wearing a black T-shirt that read THE STATION in white letters across the chest and EVENT SECURITY across the back. Around 8:30, he took up position at the right-hand corner of the stage, more to watch his friends in Fathead than to perform any real security function. By 10:30, though, he was assigned to the area leading to the band room and stage door, where he stood with his wife,

Kelly, nearby. As Vieira explained it, his “main goal was to watch forward and make sure that nobody came into the area that didn’t belong.” From prior experience, he could recite the Band Door Rules: “Just make sure no one came through the door that didn’t belong there, or a non-band member. Just so someone wouldn’t open it, mainly while music was going on . . . to allow sound to go out through an open door; or make sure no one snuck in while the door was supposed to be closed.”

According to Vieira, when the fire broke out, he went to the band room to get water and emerged with several bottles, only to drop them to the floor when he realized that they would have no effect. By then, Great White had left the stage and exited through the band door. By his own account, Vieira then moved into the dance floor and atrium areas, yelling for patrons to “come this way” through the band door. His wife, Kelly, was, unfortunately, not among them. Vieira denies having directed anyone away from the stage door at any time that night.

But someone did direct Rob Feeney and his fiancée, Donna Mitchell, away from the band door. Feeney and Mitchell, along with a group that included Pamela Gruttadauria (whose cousin had delivered the foam sheets to The Station for his employer, American Foam Corporation, three years earlier), arrived at the club around 8, but first headed across the street to the Cowesett Inn for dinner. At 9:40, they entered The Station as the second band, Trip, was setting up to play. Feeney saw the stage door exit was open, with band personnel coming in and going out.

Following Trip’s set, Rob and Donna watched “Dr. Metal” and his HJY interns throw merchandise from the stage and hype up the crowd. They stood near the right side of the stage when Great White went on. Shortly after the gerbs ignited, Rob told Donna, “Look behind the sparks — the wall is on fire!” He saw Jack Russell try to throw water at the blaze. As the flames began to lick the ceiling, Feeney shouted to Donna, “That’s the closest door,” and pushed her toward the stage door. Just then, a black T-shirt-clad bouncer, “about 5’10” tall, with short dark hair and a cigarette in his mouth” put his hand on Donna’s shoulder and told her, “You gotta use the front door.” Feeney was directly behind Donna when this exchange occurred. His instinct was to challenge the order, but Donna had already turned toward the front door, so he followed her.

Rob and Donna made it only a short distance toward the front door when searing heat knocked them to the floor. As flames roiled across the ceiling, they heard glass breaking, lightbulbs popping, and nonstop screaming. Rob picked Donna up and told her to cover her face with her hands. Again, they were knocked down by smoke so thick that the only light penetrating it was from flame itself. As they struggled to get up, a man, engulfed in flames, ran into them, knocking both flat. Feeney dragged himself to Donna’s legs, laid his head on her feet, and prepared to die.

John Gibbs and Kevin Dunn had driven Kevin’s beat-up Kia from Attleboro,

Massachusetts, to West Warwick earlier that night to see Great White. Kevin had called ahead to reserve a ticket; however, when they arrived at the club at 10:45, the procedure was less formal — they paid cash and got their hands stamped. Gibbs and Dunn made their way through the crowd to the T-shirt table set up in the atrium, but they didn't have enough money to buy shirts. John turned to Kevin and said, "Let's get real close to the stage," so they elbowed their way to the edge of the stage.

When Great White's pyro ignited the foam, the pair stayed where they were until the band stopped playing and Jack Russell muttered "That's not good" into his microphone. Then Gibbs and Dunn sought out the nearest exit — the stage door — where multiple black-shirted bouncers turned them and others away, stating the door was "reserved for the band" and physically pushing them toward the front of the club. Gibbs described one as clean-shaven, with black hair — "about 6 foot, 'cause I'm 5'11" " and wearing a black T-shirt with "THE STATION" on it. He remembers talking with this particular bouncer before Great White went on.

Denied egress through the stage door, Gibbs and Dunn made their way through the smoke into the atrium, holding on to each other's hands in the dark. Gibbs lost his grip on Dunn and found himself underneath one of the pool tables, where a box of souvenir T-shirts had been placed. He clutched a shirt to his nose and mouth but soon lost consciousness. Gibbs came to outside an atrium window, but does not believe he exited under his own power. He never saw Kevin Dunn again.

Stephanie and Nicole Conant from Medford, Massachusetts, had been to The Station three or four times and seen Great White a dozen times before. The sisters socialized with the band inside the club between 4 and 5 p.m. on the afternoon of their Station appearance and, when questioned by club employees, assured them that they were "with the band."

When the foam insulation on The Station's walls caught fire, Nicole and Stephanie were standing down front near the band room and stage door. Familiar with that door from the load-in earlier, the Conants headed for it. "The gentleman that leaned on the side of the stage, who worked for The Station, saw it going up and didn't seem to do a lot besides just lean there smoking a cigarette," recalled Stephanie. "Then he finally swung the back door open and we ran out the back door. Behind us was a few of the band members."

Another individual with unfettered access to the stage door area was John Arpin, a club bouncer of long standing, who occasionally filled in cooking chicken nuggets, jalapeno poppers, and "other Fry-O-Lator food" (his categorization) at The Station when pressed. Arpin stood near Scott Vieira in a similar black T-shirt at the apron of the stage, in the area leading to the stage door, when Great White lit its pyrotechnics. He describes leaving that area as soon as he saw the pyro ignite the foam-covered walls and "plowing through the crowd" to the far opposite end of the club "to get a

fire extinguisher from the kitchen.” According to Arpin, when he returned as far as the light and sound board, it was clear that the extinguisher would do no good, so he returned to the kitchen, where he exited through a door known only to staff. Arpin denies that he or any other bouncer refused egress to any patron through the stage door on the night of the fire.

One family that might disagree with Arpin was the Cormiers — Donna, her husband, Bruce, stepson Tim, and stepdaughter Brenda. They had driven down from Foxboro, Massachusetts; all were excited about the concert, especially after Donna heard Jack Russell interviewed by Dr. Metal on WHJY, promising a “monster show” with pyrotechnics.

As the hour for Great White’s concert approached, the Cormiers clustered near the stage, to the right, over by the band exit. Donna watched Jack Russell stretching, hopping up and down, and deep-breathing in the shadows, pumping himself up for a triumphant return to the West Warwick stage. When the band’s fifteen-foot sparklers erupted, it was no surprise to Donna. But when nickel-sized balls of flame appeared on the foam walls behind the sparks, that was a different story.

“Bruce, the wall is on fire,” yelled Donna to her husband over the din.

“They’ll put that right out,” he responded.

“No, the wall is on fire,” Donna insisted. She had never seen anything go up so fast. When Jack Russell splashed his water bottle at it, she thought, “That is the most ridiculous thing I have ever seen.”

Bruce Cormier took two steps to his left and grabbed his son Tim by his collar, literally lifting him off his feet. Donna Cormier turned to Brenda and said, “We’re out of here,” pointing to the nearby stage door. As the family stepped toward the door, a STATION T-shirt-clad bouncer with a shaved head told two men in front of them that they could not use the exit. The two men turned back into the club, slipping past the Cormiers in the opposite direction. When the Cormiers reached the door, the same smooth-headed bouncer raised his left arm and said, “You have to use the other exit.” Donna was tempted to stop when her husband bellowed, “You fucking idiot. The place is on fire.” And with that, he shoved his family right into the bouncer, forcing him aside and delivering his loved ones to safety. Once outside, Tim turned and started back up the steps, exclaiming, “My leather jacket!” Donna screamed, “I have your jacket!” and the boy aborted his potentially fatal action.

Band members Mark Kendall and David Filice stood outside the stage door with the Cormiers, having exited only moments before. Their guitars were still strapped on, and both gazed in disbelief as flames engulfed the building. Tim Cormier patted Kendall on the shoulder and remarked, “Nice show, man.” No one laughed.

As luck would have it, another person stood near the band door that night when Dan Biechele ignited Great White’s pyro. Photographer Dan Davidson had stopped at The

Station earlier that afternoon to buy a ticket to the Great White show. By then the club was out of tickets, so Davidson was given a business card with the words “Admit One” written on the back. When he returned to the club around 10 that night he carried a high-resolution digital camera. Davidson had shot concert photos at The Station before and hoped to get marketable pictures once again.

Davidson took four photos in succession, beginning shortly after Jack Russell jumped onstage. In the first, sparks fill the stage, striking the front corner walls of the drummer’s alcove and its lintel above. From left to right in the frame are Al Prudhomme’s shoulder, Scott Vieira’s back, Kelly Vieira’s back, the leather-jacketed back of club regular and occasional bouncer Mario Giamei, and — at center frame — John Arpin, his shaved head turned to the right as he watches Dan Biechele touching off the pyro from offstage. Biechele’s hair is just visible to the right of a wooden pillar. Vieira and Arpin each wear black T-shirts with EVENT SECURITY or EVENT STAFF stenciled on their backs.

The second Davidson photo was snapped just after the fifteen-second gerbs stopped showering sparks. From left to right appear Kelly Vieira’s shoulder, Mark Kendall onstage, then the backs of Scott Vieira and Mario Giamei. All but Kendall are facing the drummer’s alcove, the corner walls of which are engulfed in two-foot-high flames. At the frame’s right edge, Dan Biechele’s hair can be seen, as well as the foam-covered surface of the closed inner stage door.

In the third photo, Dan Biechele stands at center stage with a flashlight clenched in his teeth, staring up at the flames, which now roar up the alcove walls, ten feet up the proscenium arch. At the photo’s left edge, Al Prudhomme’s cowboy hat and sports jersey are visible. Kelly Vieira is no longer in the frame.

In the fourth photo, flames rage from floor to ceiling on the stage. Donna Cormier’s hand appears in the lower left, pointing toward the stage exit. The head of Ty Longley’s guitar can be seen onstage, and drummer Eric Powers stands at center stage staring back at the engulfed alcove he has just escaped. Behind him, David Filice bends to drag his amplifier away from the flames. Dan Biechele, sunglasses on head and flashlight in hand, heads offstage, toward the camera. A blonde female, possibly one of the Conant sisters, walks behind a wooden pillar on her way out the stage door, just ahead of the band. She passes by the outstretched left arm of dark-haired Scott Vieira who stands in the path to the stage door with a cigarette hanging out of his mouth. The inward-swinging stage door has been opened for the blonde-haired woman. In the foreground sits a cardboard box that had accompanied Great White from Glendale Heights, Illinois, to West Warwick, Rhode Island, with many stops in between. It bears a bright orange label reading, EXPLOSIVE.

Nine days after the fire, Donna Cormier reviewed the Davidson photographs with the Rhode Island State Police. She positively identified John Arpin as the shaved-headed bouncer who had tried to turn her family away from the stage door.

According to the Rhode Island Department of the Attorney General, twenty-four people got out through the stage door exit, all without injury. Only four of them had actually been onstage at the time of the fire. Counting persons associated with Great White, Fathead, Trip, and the club itself (including the Conant sisters in this group), there were a total of twelve “with the band.” Since four of the remaining twelve persons were the Cormier family (whom a bouncer tried to deny egress), only eight other “civilians” passed through the stage door in the full minute between pyro ignition and complete closure of the exit due to fire. Clearly, others were denied its use.

At least one person *chose* not to use the stage exit, however — even though he had used it all night. Ty Longley, Great White’s rhythm guitarist, did not head offstage to the adjacent door with his bandmates. Rather, when Longley spotted his friend Bill Long (Trip’s road manager) in the center of the club, he jumped off the stage and ran to him, saying, “C’mon, let’s get out of here, bro.” Long and Longley made their way through the heat and smoke toward the atrium, that curious vestige of ’70s architecture along the club’s front wall, which featured curved Plexiglas panels arching from ceiling to floor along its entire length. The atrium deceptively suggested a possible escape route for panicked patrons; however, its “windows” were actually impenetrable save for three low glass (rather than Plexiglas) panels at widely separated locations. The Derderians had pushed three pool tables up against the windows, in order to garner more standing-room space. The result was a billiard barricade that kept victims from the few breakable panels.

Long pounded on the Plexiglas with his fists and kicked them with his motorcycle boots. At one point he crawled onto a pool table and kicked at the panels backwards, like a horse — all to no avail. He looked up, and Ty was right in front of him; then Longley disappeared from view. Long reached for pool cues, but everything he touched burned his hands. He fell to the floor, passing in and out of consciousness as others trampled him. Long found himself next to the table where Great White T-shirts had been sold just a few minutes earlier by a woman named Linda Fisher.

Linda Fisher didn’t work for Great White. She was a Station regular who was usually “comped in.” The Great White concert was no exception. However, as a friend of the house, she was pressed into service to sell Great White merchandise when no one else was available.

Doffing her own blousy shirt and donning instead a cotton Great White tank top, Linda sold her goods from a corner of the atrium beside the pool tables that had been pushed against the curved Plexiglas windows. Her friend Debra Wagner helped out. From Linda’s vantage point she could only see the right side of the stage — but when Great White set off its pyro, she saw immediately that one wall had caught fire. Wagner suggested they try for the front door, but Fisher replied, “350 people and one door doesn’t work. We’ll be crushed.”

Linda grabbed a box of Great White CDs “to insure they wouldn’t be hassled by the bouncer guarding the stage door,” but as the pair headed for the stage door, the smoke and heat struck them head-on. They would never make it that far. Linda told Debra to get down on the floor with her and wait “until the sprinklers come on.” When no sprinklers came on, Linda thought, “Oh, shit, what did I do?” With Debra still on the floor, Linda stood up and placed both hands against the atrium windows. Her lips blistering and arms searing in the intense heat, she kicked at one glass pane set among the atrium’s Plexiglas panels. The glass would not yield. According to Fisher, she then “made her peace with God.”

At that moment, Patrolman Mark Knott arrived outside the same glass pane with his expandable metal baton in hand. He smashed through the pane and ran the baton around its frame, clearing away shards of glass. Knott and others reached inside to pull Debra Wagner through the opening. Then, Linda Fisher. Both survived, but Fisher suffered grievous burns to her face and arms. Ironically, her Great White tank top protected some of her torso from even worse burns.

Bill Long was somehow pulled through the same window, his hands and face blistered by the heat. He stumbled to a snow bank and thrust his hands into its coldness. His friend Ty Longley was not nearly as fortunate. In joining Long, rather than slipping out the nearest exit, Longley had made a fatal choice.

Rob Feeney and Donna Mitchell had not been given any choice by the dark-haired, cigarette-smoking bouncer who turned them away from the stage door. As Rob rested his head on Donna’s motionless legs in the choking blackness and volcanic heat, he felt someone tap him on the left shoulder. He reached around but felt no one. When he felt the tapping again, he started kicking his feet. Realizing that he was not dead, Feeney started to crawl out over lumps he later realized were bodies. The ceiling above him glowed, dripping molten plastic onto the floor, where it consumed the flesh of his hands and fingers. He came upon a wall and followed it to an opening, which he pulled himself through, tumbling onto the concrete outside the atrium. Rob dragged himself to Great White’s tour bus and leaned up against it. Firefighters told him he was seriously hurt and doused him with snow. While awaiting transport to the hospital, Feeney noticed a shadow to his right, which he perceived to be his fiancée, Donna. Two firefighters picked him up and carried him away from the burning building. As Feeney was being moved, he saw the atrium roof collapse.

It wasn’t until Rob Feeney left the intensive care unit of Rhode Island Hospital that he learned Donna Mitchell had died inside The Station. He later identified Scott Vieira from the Davidson photographs as the dark-haired, cigarette-smoking bouncer who refused him and Donna passage through the stage door.

Gina Russo needed no photographs to positively, and vehemently, identify the bouncer who turned her and Fred Crisostomi away from the band door. One year after the fire, she unexpectedly came face to face with him at a function for Station fire

families. Her reaction was so immediate, and visceral, that she flinched and lost her balance, falling back into a nearby chair. All she could say was, “Oh, my God, it’s you!” He responded, smirking, “Yeah.”

Other survivors reported being pushed or thrown, unconscious, through a broken atrium window by someone on the inside. Bouncer Tracy King, at six-foot-two and three hundred pounds, is seen onstage in a late photograph by Dan Davidson, silhouetted against the flames. The cheerful giant, who once balanced a canoe on his chin on the David Letterman show, could never have fit through an atrium window himself. Some believe that King threw others out until he was felled by the smoke and heat inside.

CHAPTER 13

FIGHTING FOR AIR

“FIRE IS AN EXOTHERMIC OXIDATION REACTION that proceeds at such a rate that it generates detectable heat and light.” So begins a standard textbook on the science of fire.

However scientifically accurate that definition may be, it does not begin to convey fire’s power to consume wood, flesh, and the very oxygen that sustains life — so rapidly that escape from it may be impossible. Describing fire as a “self-sustaining chain reaction requiring combustible fuel, oxygen and energy” is a little like explaining death as “the cessation of heartbeat and brain activity.” It kind of misses the central point.

A more useful approach to fire, at least as regards its ability to harm man, might be to view it as a living organism competing with nearby humans for a limited resource — oxygen. Both fire and mankind need oxygen to sustain themselves. Fire requires about a 16 percent concentration of oxygen to survive; we require 12 percent to function unimpaired. Room air has only 21 percent oxygen. The result of this shortfall is a most unhealthy competition.

Fire and humans both engage in a process called oxidation. Humans do it on a cellular metabolic level; fire, on a much larger scale. While we tend to think of fire as the destruction of matter, the laws of chemistry tell us that matter is not destroyed but is, instead, changed in form. This can either be a *physical change*, such as changing from a liquid to a gas, or else it is a *chemical change*, in which its elements are recombined. Fire is an example of the second type: a chemical change by which fuel is broken down and its elements (predominantly carbon) recombined with oxygen in the process of oxidation.

Two big differences between the two contenders for oxygen are their rates of its consumption and the weapons available to each. Fire is a voracious oxidizer. Our bodies’ cells work at a slower, but no less imperative pace. Fire’s arsenal in this contest includes heat and poisonous gases; ours, only water and our wits. Each combatant is quite capable of destroying the other to obtain the precious O₂. From a human standpoint, when it comes to fire, it is a case of survival of the fittest. The choices are kill, escape, or be killed. Without a sprinkler system in place, the first option — killing the fire — was unattainable, and the patrons of The Station nightclub had the second option for only a woefully short period of time. In the end, the third option asserted itself.

Fire can be defeated in the battle by removing any of its three prerequisites: fuel, oxygen, or heat. Take away any one, and the fire goes out. Increase one or more, and the blaze increases, potentially spreading to other fuels. Since fire is a chain reaction, an increase in its intensity means an increase in generated heat — which itself feeds the cycle of fuel and oxygen consumption — until one of the three elements is exhausted.

Humans can lose the contest because of fire's heat, its toxic byproducts, or its consumption of oxygen. Any one will do. In order to escape these perils, we have to understand how fire develops. A good starting point is the nature of flame.

We all know that fuel can be solid, like a log in a fireplace. Few of us realize, however, that only a gas or vapor burns with a flame. When we see a “flaming log” we are actually watching combustion of gases being driven from the solid log in a process called *pyrolysis*. The same is true of a burning candle. Wax melts, undergoes pyrolysis, and the resulting gas burns with a visible flame. The initial heat to begin the chain reaction must come from an external source. But once fire begins, it produces enough heat itself to continue pyrolysis and the chain reaction we call burning.

In the Station fire, before polyurethane foam on the walls could burst into flame, the solid foam had to undergo pyrolysis from the heat of the gerbs' sparks striking it. The process was aided by the low-density, open-celled nature of the foam, as well as by the foam's shape. The peaks and valleys of the foam's convolutions were perfect for catching sparks and maintaining them in contact with the plastic long enough for it to pyrolyze and liberate flammable gases, which then burned with a visible flame. All this occurred within seconds of the gerbs' initial ignition by Dan Biechele. Once begun, the chain reaction accelerated, such that any manual attempt to extinguish it after the first minute would likely have met with failure.

Critical to any fire's growth is its ability to transfer heat to new fuels. To understand heat transfer is to understand our rival's game plan. Heat can be transferred in three ways: conduction, convection, and radiation. Conduction is the transfer of heat energy by direct contact with a warmer object. Convection is the transfer of heat by a moving medium, such as air. The third method of heat transfer — radiation — is the least understood but perhaps most important to the growth and propagation of fires. Radiation is the transfer of energy between two objects across a space via electromagnetic waves, largely infrared, but sometimes within the visible spectrum.

On a trip to the beach we experience all three types of heat transfer. When our feet touch the hot sand, we feel conductive heat directly from the sand. As the warm breeze caresses us, we feel convective heat from the medium of the air. And when we step from under our umbrella into the sunshine, sensing immediate warmth, we are basking in the sun's radiant heat, transmitted over millions of miles through the vacuum of space and the gases of our earth's atmosphere.

Scientists measure the radiant power of a fire by its “heat flux.” Radiation is critical

to the growth of building fires, and is often responsible for fires becoming unsurvivable. It certainly was so in the case of The Station. The entire west wall of the club became a source of powerful heat flux within ninety seconds, transmitting radiant energy across the concert space to be absorbed by all in its path.

We tend to think of fire as survivable if only we can avoid contact with its flames. That is, sadly, mistaken, but we are not entirely to blame for that belief. The misperception is fueled by TV shows and movies like *Backdraft*, in which Kurt Russell and William Baldwin emote for minutes on end amid cinematic flames and vaporized propylene glycol “smoke” within a “structure,” seemingly unaffected by convective heat, radiant heat, or, equally important, toxic byproducts of combustion. Would that this were possible.

In fact, fire’s contest with humans for oxygen is anything but a fair fight. In addition to its daunting heat, fire’s weapons include gases and vapors that are incompatible with human survival. Because hydrogen is found in almost all fuels, the burning of virtually any common fuel results in the production of water in vapor form. It is sometimes seen condensing on the cold windows of burning structures. We don’t think of fires as producing water vapor because when we sit in front of a fireplace, most water vapor exits up the chimney. We feel the fire’s radiant energy as a completely “dry” heat. But the atmosphere in a structure fire is much more steam room than sauna — and for that reason, far less tolerable. Copious amounts of water vapor remain contained within a burning room. Think of the immediate change in perceived temperature when water is splashed on a sauna’s hot coals, transforming a comfortable dry heat into scalding hyper-humidity. It is the latter condition that patrons of The Station struggled to escape, many bearing flash burns of their heads and hands, delineated from unburned skin by collar and cuff lines.

In addition to the water vapor, carbon dioxide, and carbon monoxide that constitute the most common byproducts of combustion, a structure fire generates great quantities of flammable unburned gas liberated from the solid fuel. These gases rise and gather in the fire’s smoke layer unless vented, until they combine with sufficient oxygen and heat to ignite. It is the stuff of firefighters’ nightmares.

The sequence of a room fire is terrifying in its predictability. In its beginning stage, flames are localized in the first fuel ignited — in the case of The Station, the polyurethane foam on the walls of the drummer’s alcove. The room still has normal oxygen content (fire hasn’t won the contest yet), and overall temperatures have not begun to rise (witness Great White onstage, still slamming power chords while flames develop behind them). Convection carries byproducts of combustion to the upper part of the room, in this case the peaked ceiling area above The Station’s stage, as it draws oxygen in at the bottom of the flames.

In the next, “free-burning,” stage, fire raises the stakes, laying claim to the room’s upper reaches. The layer of atmosphere near the ceiling, in which fire has already

prevailed, has low oxygen content, high temperatures, opaque density, and partially burned pyrolysis products. The floor layer, however, remains up for grabs, with relatively cool, fresh air. Survival is possible if one stays low. But not for long.

Though most people don't know it, the smoke layer *itself* can catch fire. If ventilation is limited, incompletely burned pyrolysis products will gather into a fuel-rich layer that expands lower and lower into the room, its temperature steadily climbing, until one or more fuels in the airborne mix reaches its ignition temperature. Then, the layer catches fire and flames may extend across the ceiling of the room in a process called *rollover*. The flame front in this fuel-air cloud can outrun the fastest human, progressing at a rate of ten to fifteen feet *per second*.

Karen Gordon and her husband, Paul, competed in such a lopsided footrace. They were standing at the back bar when Great White's pyro ignited the foam. Unable to exit through the overcrowded front doors, they scrambled into the main horseshoe bar area beneath a dense smoke layer "four feet from the ceiling" with a "thin line of fire" moving through it. Both narrowly escaped the flame front, tumbling out the bar door through searing heat.

Once flames have "rolled over" a room's ceiling, its entire surface can become a source of downward radiated heat. When this layer reaches a critical temperature of approximately 1,100°F, all fuels in the room (including wood, fabric, clothes, and hair) burst into flame. This is called *flashover*. At this point, fire wins, and escape without grievous injury is impossible.

Flashover first occurred at The Station within the drummer's alcove. Computer modeling and full-scale testing by the National Institute of Standards and Technology (NIST) suggest that the drummer's alcove reached flashover within sixty seconds of the polyurethane foam's ignition. At that point, all fuels within that small space would have burst into flame. Eric Powers's drum set may not have contributed significantly to the overall fuel load, but the same cannot necessarily be said of other materials there — especially some installed by Howard Julian as early as 1996. These materials would later shed light on the Station fire's central mystery: why it so quickly became inescapable.

Sometimes a room fire will consume too much available oxygen to allow open-flame ignition of airborne fuel. In such situations, ignition of the gas layer may not occur within the building at all, but instead the fuel-rich smoke will ignite as it leaves the tops of door and window openings, mixing with outside air. On the night of the Station fire, Brian Butler continued shooting video for WPRI-TV long after he exited the club's front doors. Where the video focuses back on the front doors and windows of the club, this phenomenon is plainly visible, with blowtorch flames belching from window and door tops.

Fire scientists have established limits of survivability (called "tenability") in the fire/human contest with respect to temperature, radiant energy, and available oxygen.

As to temperature, it is generally believed that 250°F is the limit of human tolerance. For radiant energy, a “heat flux” exceeding 2.5 kW per square meter (just 2 ½ times the radiation of direct summer sun) will pretty much do you in. And we all need at least 12 percent oxygen in our air in order to remain in contention. Exceeding one tenability threshold does not instantly mean “game over,” but the final buzzer certainly looms. Duration of exposure, rate of change, and susceptibility of the individual to these conditions all play roles. As the NIST investigation generally concluded, most occupants of The Station had less than ninety seconds to escape under tenable conditions.

One area of the club that exceeded the temperature threshold for tenability within ninety seconds was the east end of the atrium, adjacent to the front door corridor. According to the NIST models, change in that area was “rapid and extreme,” going from ambient to flame temperatures (1,830°F) *within just ten seconds*. It is little surprise that nineteen bodies were recovered from this kiln-like corner of the club.

Consistent with known behavior of room fires, the NIST models exhibited a striking difference in tenability five feet from the floor of The Station, and two feet from its floor. While temperatures five feet off the floor in the main bar area probably exceeded the death threshold within 100 seconds, the temperature two feet from the floor remained survivable for several minutes, due to inflow of fresh air through broken bar windows. Sure enough, the Butler video shows one victim being pulled alive from a bar window at 250 seconds after foam ignition, long after survival in any part of the atrium had become impossible.

Once the superheated gas layer in The Station descended to within two feet of the floor, victims like Linda Fisher, who had crawled within reach of a window, faced a Hobson’s choice: rise to escape (and expose their upper bodies to blast-furnace heat) or die seconds later on the floor. Not surprisingly, survival instinct compelled most to attempt escape, with the result that many sustained the very worst burns to their head, back, shoulders, and arms.

In addition to keeping temperatures survivable, flow of air through the broken bar windows also provided a layer of tenable oxygen concentration near the floor of the main bar sufficient to sustain life. According to the NIST models, at two minutes post-ignition, most of The Station had only a 2 percent O₂ concentration; however, the floor of the main bar still maintained tenable oxygen levels.

The NIST report concluded that only one other area of the club could have remained even theoretically survivable throughout the worst of the conflagration. It was a small three-dimensional space at the front double doors to the club. Shaped like an isosceles triangle with its base facing the outside, the four foot-high wedge had a hypotenuse that sloped downward to meet the floor several feet inside the entrance corridor. Temperatures and oxygen concentration in that wedge, alone, just might have been compatible with sustaining life. The same could not be said for the rest of the club.

CHAPTER 14

A SNOWBALL'S CHANCE IN HELL

NO PATRONS ENTERING THE STATION through its front doors on the night of the fire anticipated that they'd be leaving any other way. Certainly, Shamus Horan, a twenty-seven-year-old master pipefitter from Coventry, Rhode Island, did not. He was among several quite ordinary people who would perform extraordinary deeds that night.

On the evening of the Great White concert, Horan stopped at The Station to see if there were any tickets left. Sold out of actual tickets, Andrea Mancini took Shamus's money and tore off a corner piece of lined notebook paper, writing on it, "Admit 5 people." "Class operation," thought Shamus. He returned later that night with his fiancée, his older brother, and another couple, to find Jeff Derderian manning the ticket desk. When he showed Derderian his scrap of notebook paper, the owner admitted his party without challenge. Apparently, overselling available tickets was nothing unusual at The Station.

Horan's group was standing, wedged shoulder to shoulder, about five rows from the stage, next to cameraman Brian Butler, when Great White came on and their pyrotechnics went off. As soon as Shamus saw flames on the walls, he knew from his HVAC work that the burning plastic foam would quickly make the air unbreathable, so he steered his party toward the front door.

Shamus's group had not made it as far as the ticket desk when dense smoke began to roll over their heads and the crowd jammed the corridor leading out the front doors. He lost track of his brother but moved with others into the main horseshoe bar area, where, amazingly, some patrons still sat on stools, oblivious of the growing peril. Horan spotted a window, but it was immediately obscured by the roiling smoke. He threw his body toward where the window had been, crashing through its glass and landing on the concrete wheelchair ramp outside. Instinct caused him to immediately scramble away from the building. But seconds later, a very different instinct kicked in. Horan vaulted back over the ramp railing *toward* the shattered window opening and began reaching in to pull others through. Acrid black smoke poured from the broken window, blocking anyone inside from his view. Operating by feel, and holding his breath, Shamus pulled five or six gasping people out. Each slid under the railing on the ramp, toward the parking lot. As he reached, grabbed, and pulled, over and over, Horan dearly hoped that his girlfriend, his brother, or their friends would be next to come through.

Another window remained intact to the left of the one through which Shamus had escaped. He found a metal beer sign on the ground and used it to smash that one, pulling at least one person through it. Returning to the first window, he would take a breath of outside air and stretch inside, pulling out whomever he could grasp. As seen on Butler's video, Horan pulled several more victims through, but none that he recognized. Consistent with the reconstruction by the NIST computer modeling and large-scale testing, Horan was able to pull survivors from broken bar windows well past the time when temperatures back in the atrium exceeded 1,000 degrees. Luck of location had brought them not only to a tenable space several minutes after the fire's ignition, but within reach of a most determined rescuer.

Driven back by flames and smoke pouring from the building, Horan finally made his way to the road that ran alongside the club's east wall. There he found the other members of his party. They had gotten out through the bar door, the front door, and a window. All were cut, scorched, and bloody — but they chose not to go to the closest major hospitals, in deference to the more seriously injured, driving instead to a community hospital half an hour away.

Gary Beineke and his wife, Pam, lived in Sharon, Massachusetts, and had been to The Station several times before. They liked to stand on the raised platform that ran along the club's south wall, right next to Paul Vanner's monitor board. That put them close to the band, but off to its left as one faces the stage. On the wall behind them was black-painted egg-crate foam adorned with some type of glitter. Gary had begun absentmindedly picking at its desiccated peaks when Great White came on. He was surprised at how very dry and "skeletal" the foam felt under his touch.

Gary Beineke was not a late-night person, but he'd tape Dr. Metal's radio show on WHJY and play it when he worked in his garage. So he was happy to be standing right next to Mike (Dr. Metal) Gonsalves on the south wall platform when Great White took the stage.

According to Beineke, as soon as he saw the gerbs ignite, his "initial reaction was bad." As their sparks hit the ceiling and walls, he thought, "everything's very, very small and tight [for pyro]." Then, when the sparks stopped, Beineke immediately noticed flame on one corner wall of the drummer's alcove. He watched for "a second or two to see if someone on the stage was gonna hit it with an extinguisher," but when no one did, he looked to his wife, and her eyes said it all: we're out of here. Gary and Pam grabbed hold of each other's jeans and moved as fast as they could down the elevated section along the south wall, toward the main sound board and the opening in the knee-wall separating them from the rest of the club. Paul Vanner raced past them, grabbed a small fire extinguisher from the sound board, and bolted back past them along the platform, toward the stage. Just then, Pam Beineke heard someone shout to Vanner, "It's too late for that!" The Beinekes made it just past the soundboard when

Gary looked back toward the stage. Its entire wall had “turned into just a fireball . . . everything was just glowing orange.”

Gary figured they had no more than a minute to get out. But progress toward the front door had slowed almost to a stop, with people in front of them moving only a half-step at a time. By this time, smoke had filled the raised ceiling area above the stage and begun to roll across the dropped ceiling covering the rest of the club, descending closer and closer to their heads.

The front door looked impossible, so Gary and Pam ducked down below the smoke layer and worked their way to the main bar windows. Gary tried kicking one window out with a sneaker-shod foot. It just bounced off. One kick. Two kicks. Three. The glass wouldn't yield. “The smoke was now getting lower and we were almost on our knees trying to get air. Just then, another man freed a latch securing one of the smaller bar windows, and slid its lower sash up. Gary followed him, diving headfirst out the window, assuming Pam was right behind him. But nothing followed Gary out of that window “but black billowing smoke.” Beineke reached back inside and, working blind, felt someone. He pulled that person through the opening. It was not Pam.

In his rising terror, Beineke strained to look into the bar through the smoke, where he saw flames roll over the bar's ceiling, igniting the layer of unburned gaseous fuel there. Silhouetted against that orange glow was a woman. Beineke lunged and grabbed, dragging Pam through the window opening. He propped her up against the wall of the building, between the window she'd just exited and the double picture window next to it. But both could hear loud banging and saw the glass of the picture window bulge outward.

Just as Gary pulled Pam away from the bulging glass, it shattered, and two people exploded through it onto the concrete below. They were immediately followed by others who landed right on top of them. Several seconds later, “someone on fire” fell out the window they had just exited, onto the ground at their feet. People near them used jackets to try to smother his flames. As the scene at the front of the club became increasingly horrific, Gary and Pam stumbled to their car, with singed hair and scraped limbs.

The area of the bar windows was the site of selfless heroics on the night of the fire. One beneficiary was Stephanie Simpson. She had passed out from the smoke, just short of the bar windows. She later came to “on fire,” and praying, “Oh God, don't take me, but if you do, do it quickly.” Suddenly, Simpson felt herself being picked up by her right arm and the back of her pants and tossed through an open window. Someone dragged her to a snow bank and covered her head and face with snow. Stephanie's next memory was awakening in a hospital bed, with no idea who threw her, or whether that person escaped.

Another person who escaped through a window, with help, was Katherine Randall. She and her boyfriend had made it as far as the bar windows when flame began to

“cruise across the ceiling” and a wall of smoke hit them. She describes a knockdown effect of the smoke that was instantaneous. “There was no breathing. I just went down. It was like passing out.” Randall thought, “I was just gonna go to sleep . . . that’s how I’m going.” Suddenly, she felt herself being “yanked up.” She could see headlights in the parking lot through a window in front of her. Her boyfriend pushed her toward the window, and a woman reached through from outside, grabbed her shoulders, and pulled her out. “The light was behind her, so all I could see was her face,” recalls Randall. “I saw her like she was God.”

Mike Ricardi, a nineteen-year-old Nichols College student, would also be thankful for his escape from The Station that night. He and his college buddy Jimmy Gahan had interviewed Russell in his tour bus earlier in the evening. Ricardi and Gahan returned to the club around 9:30 and entered on Russell’s “guest list.” They took their places toward the right side of the hall facing the stage, only two rows back from the performers — normally a choice spot. When fire broke out, both turned and pressed toward the front door, but soon got separated in the thick smoke.

Ricardi dropped beneath the smoke layer and pushed through the choking darkness. When progress toward the front doors stopped completely, Mike despaired of ever escaping — then, he envisioned his late grandfather, a Worcester, Massachusetts, firefighter who had died in a burning building. He was telling Mike, “I went that way; you’re not going to.” Ricardi was somehow able to crawl around the ticket area into the front of the main bar, where he dove out a broken window.

Ricardi’s relief and thankfulness for having escaped unhurt were, however, tempered by a profound loss. Just seven days later he was a pallbearer at Jimmy Gahan’s funeral.

As Jimmy Gahan’s fate proved that night, a spot on Jack Russell’s guest list could be a dubious honor. The Denny’s breakfast gang, led by Rick Sanetti, would find it a mixed blessing. They totaled nine, including Sanetti’s wife, Patty, and niece, Bridget. Patty left the club just before Great White went on. Of the eight remaining, only five would escape the fire.

The Sanetti party congregated in the main bar area of The Station immediately before the main act. Among them was Katie O’Donnell, Bridget Sanetti’s friend, whom she had brought along for the free night out. Minutes before Great White went on, Katie and Bridget headed for the ladies’ room. When the fire started, they had not yet returned to their group. About fifteen seconds after flames first appeared, Rick Sanetti “believed in his heart right then that the building was going to burn” and tried to gather his party to leave by the closest door — the bar exit. They were headed toward that door when the smoke layer descended in the bar. Sanetti found himself in

a crush of choking people trying to fit through one thirty-six-inch door.

Finally, the crowd burst out the door and deposited him in a stack of people on the steps outside. Sanetti worked himself free of the pile, then ran around the corner of the building where he hoped to find his niece. There, instead, he found broken windows with people tumbling out with hair aflame. He stood beside Shamus Horan and tried to help people through window openings, all the while screaming for Bridget. But neither Bridget nor Katie was seen again.

At 11:17 p.m. a West Warwick police dispatcher received a 911 call from “a female trapped inside and in need of help.” If Bridget Sanetti and Katie O’Donnell were in the ladies’ room as fire consumed the dead-end corridor to the restrooms, the two young women had little chance of rescue. According to the NIST computer simulations, temperatures in that corridor topped 600°F, and its oxygen concentration dropped below 2 percent within a minute and a half of the fire’s ignition. Firemen with breathing apparatus arrived at The Station four minutes later. Long after the fire, when Richard Sanetti was permitted to retrieve his niece’s possessions from the medical examiner’s office, Bridget’s cell phone was among those personal effects. The last three numbers dialed by her were 911.

Back at the front windows of the bar, rescuers like Shamus Horan and Rick Sanetti labored long past the point where smoke and heat should have driven them away. To their horror, handfuls of hair and clothing were eventually all that could be extracted from the window openings. Sanetti describes one “very young man” who crawled to a window and reached up with a hand blackened from the heat. When the would-be helper reached for that hand, its skin came off and the victim’s red-hot wristwatch branded Sanetti’s palm. The young man was beyond saving.

Besides the three HJY interns on hand at The Station that night, there was a fourth Rhode Island College senior present, who by happenstance also majored in communications. Unlike the HJY crew, however, Jen Choquette wasn’t on an unpaid internship; she was at one of her multiple part-time jobs — bartending at The Station — which she worked to put herself through school. Jen had answered a want ad in the *Providence Journal* about a year and a half earlier. The interview and training process consisted of a backroom chat with Mike and Jeff Derderian at the club. No paperwork was completed — no employment application, no W-2. She’d be strictly paid “under the table . . . cash.” Training consisted of, “Here’s the bar, here’s the kitchen, here are the light switches and here’s the Fry-O-Lator oil.” She was never shown a fire extinguisher.

Choquette was soon opening the club on Thursdays and Saturdays at 4:30 p.m., closing it at 1 a.m., and cleaning up until 1:30. She would go directly from her college classes to the club on Thursday afternoon. For her labors, Jen received \$40 cash per night, plus pooled bar tips. Tips had to be split with the “bar back,” who continuously

stocked the bar's coolers with beer and ice.

On the afternoon of the concert, Jen Choquette arrived at the club around quarter to four from a short day at school. She'd had "two huge exams that day," had stayed up all night to prepare for them, and hadn't eaten. Choquette was asleep on her feet from the moment she arrived. And from early on, she was slammed. At five feet, two inches tall, Jen could see only the first row of people against the bar, but she knew that the faster she made drinks, the more money she'd make. As soon as she'd serve one patron, another would take his place; and on it went. Sleep-deprived and food-starved, Choquette functioned on autopilot right up until Great White's pyro lit up the club.

As Dr. Metal stood onstage hawking Budweiser, WHJY, and Great White, Jeff Derderian stood at the main bar alongside Choquette, counting out singles from the tip jar to replenish the cash registers, which were jammed with twenty-dollar bills. Derderian counted out twenties, put them in his pocket, or took them back to the office. This was the first time in Jen Choquette's experience that the registers overflowed with twenties. It was a good thing, too, because Dan Biechele, Great White's manager, was waiting to be paid.

Jen was still head down, making drinks, when Great White began to play. She was so tired that when people shouted "Fire!" she heard "Fight!" and kept on pouring, figuring the safest spot for her was behind the bar. Only after she saw flames near the ceiling of the far end of the club did she stop her work, marveling that the band played on. When Great White finally stopped playing, smoke had begun to reach the bar, and a crescendo of screams followed. Her mind raced. "I'm like, 'Oh, God, I can't leave the bar. I'm gonna get fired. I have money in here. I can't leave it.' I probably had, like, \$600 so far in the pot."

But as smoke and flame spread through the concert hall, Choquette's sounder instincts took over. Placing one hand on the bar, she vaulted over it and bolted out the bar exit door in a single motion. Looking back on that instant, Jen recalls that "something lifted me up over the bar and threw me out the side door." The absence of alternatives can have an immediate clearing effect on the mind. It certainly did so for Jen Choquette. Fortunately, at that moment she knew where the bar door was located.

Several people were able to escape through the unmarked and largely hidden kitchen door. Most were club employees, the only persons familiar with that exit. John Arpin and Paul Vanner were somehow able to traverse the entire length of the club, from stage to kitchen door, and exit uninjured. Scooter Stone made it from the light board; Julie Mellini from her back bar. They all knew where they were headed.

Using the kitchen door in the event of an emergency was something that Vanner had personally contemplated in the past. "If the shit ever hit the fan in this club, or if there's fire or if there's some idiot that whips out a machine gun and starts shooting

people, or a riot or something, that exit is gonna have accessibility to it cause nobody knows about it,” he correctly predicted.

Shot girl Rena Gershelis wondered whether fire was part of the show — until waitress Dina DeMaio (seen tending the main bar in the pre-fire video sequence) told her, “I don’t think it’s part of the show. I’m out of here. You should leave.” Rather than head directly out, however, DeMaio walked toward the club’s office, possibly to grab her personal belongings. That brief detour proved fatal. When Gershelis stowed her shot tray and walked out the kitchen door, she assumed that Dina was right behind her. But Dina never followed.

Julie Mellini would not have left when she did had not Paul Vanner run by her and said, “Julie, get the hell out. Get the hell out now. This place is goin’ up.” Julie grabbed her cash register drawer and headed toward the kitchen door, telling people to “follow me.” Once outside, Mellini hurried around to the front of the club, hoping to find her best friend, Linda Fisher, who had been selling Great White merchandise in one corner of the atrium. In front of the building Julie found “piles of people trying to get over each other” out the front door. Before she could find Linda, however, Mellini met Jeff Derderian in front of the building. He told Julie to “help people,” then grabbed the cash drawer from her and disappeared behind the burning building. A cash register drawer was later found stashed in a snowbank behind the club.

One nonemployee who found his way out the kitchen door was Stephen Eldridge. When smoke and heat filled the club, he moved away from the fire, as instinct would suggest. However, he soon found himself in the back storeroom. Eldridge quickly scanned it. No door. No windows. Three other people in there. One was “Dr. Metal,” Mike Gonsalves. Eldridge knew he couldn’t stay there, so he pushed open one of the room’s swinging doors and took a lucky right turn in the smoky darkness. Finding himself a few feet from the open kitchen door, Eldridge simply stepped outside.

The next day, firefighters recovered ten bodies from within the storeroom. No survivor saw Dr. Metal after Eldridge.

A few patrons escaped despite an initial period of indecision. Harold “Hal” Panciera came to The Station that night with low expectations, and the place, “an overcrowded dump,” lived up to them. Panciera was thirty-five and coming off a rough stretch. Just three weeks out of rehab for cocaine addiction, he sat “stone cold sober” at the main horseshoe bar smoking cigarettes when Great White took the stage. He can be seen in Brian Butler’s early video walkthrough of the main bar, seated next to the Sanetti party.

Panciera had a clear sight-line to the stage from his perch at the bar, and he didn’t like what he saw. The moment flames began climbing the walls behind Great White,

he “knew that people were going to die — the place was just that crowded.” Panciera initially ducked behind the bar’s curve about ten feet from the exit door and waited for his buddy, who had gone to the men’s room. Before long, however, black smoke tumbled toward him across the ceiling. It fast became too thick to see anyone, but he “distinctly recalls hearing the bar cash register open.” Someone scooped the till. As heat in the room rose in seconds from tolerable to scalding, Panciera could hear, over the screams, people banging blindly on the walls, feeling for any door or window opening. Working his own way along the east wall of the club, he groped for the bar exit door until he “popped out” of it, into breathable air.

Once he became reoriented, Panciera returned to the bar door and yelled inside, but there was no response. He turned and walked twenty feet farther south to the kitchen door. It stood open and empty, flanked by snow piles. All who would exit through it on their own had long since left. Inside were only black smoke within a few feet of the floor and an eerie silence. When he yelled into the door, Panciera truly expected no response. But a man answered, “Help! I’m burning alive! I can’t get out!” Panciera knew he could not reenter through the dense smoke, so he yelled for the man to stay on the floor and tell him if he felt snow. Panciera then began throwing snowballs along the floor in a radial pattern. After several tosses, the man responded, “I feel it!” So, Panciera kept throwing snowballs in the man’s direction, instructing him to follow them. When the man crawled within feet of the kitchen door, Panciera reached inside and dragged him out.

Brian Butler’s video from outside the club more than five minutes into the conflagration clearly shows the five-foot-seven, 150-pound Panciera standing in the parking lot, staring toward arriving firetrucks and shouting, “Gimme a medic!” Over one shoulder, he carries a two-hundred-pound unconscious man. Behind him, flames belch from the club’s front doors. Beside him, a leather-vested club-goer holds a pitifully tiny fire extinguisher aloft in one hand. In the foreground, firemen drag an uncharged line past a blackened, still-smoking man who writhes on the pavement moaning, “Turn it on . . . turn it on.” And Dan Biechele scrambles to free that same fire hose from beneath a car tire. One can only surmise Biechele’s horror at what he had unwittingly set in motion.

Panciera never learned the identity of the man on his shoulder — the lucky one, who had escaped the inferno on a trail of snowballs. But the victim spoke with Panciera about his children after regaining consciousness and awaiting transport to a hospital. Panciera is sure the man survived.

CHAPTER 15

THE WAY OF ALL FLESH

WE SEE IT EVERY DAY, and there may be entirely too much of it for our liking, but by and large we know about as much about our skin as we do about our spleen. Sure, it's probably important, but what our skin does, and how it does it, remains a mystery to most of us.

That is, until our skin is burned. Then, its complexity, regenerative powers, and critical role in our survival become all too apparent. We can live without a spleen. We can't live without our skin.

The anonymous Station fire victim, seen writhing and smoking in the parking lot in the Butler video, was acutely aware of the necessity, and particular vulnerability, of his skin. One can only hope that his agony was caused by burns sufficiently superficial that his skin nerves were spared from destruction, thereby increasing his chances for a good recovery.

Had land mammals, including humans, not evolved from aquatic creatures, we might not need such complex, or sensitive, skin. Scales or shells fit the bill for most water-dwelling animals. However, scientists studying evolution tell us that the development of an envelope of skin was a crucial step in the adaptation of aquatic animals to a land environment, with its infinitely more variable hazards and opportunities.

And skin was an extraordinary evolutionary development. It is a complex organ — the largest in the body — that simultaneously protects its wearer from the environment as it allows him to interact with it. Hardly a static wrapper for our innards, skin is a dynamic, integrated arrangement of cells, tissues, and structures that performs a myriad of functions. It provides not only a physical barrier to heat and cold and against infectious microorganisms, but also a mechanism for regulation of body temperature; sensation (from exquisite to excruciating); protection from the sun's rays; maintenance of the body's fluid balance; wound repair and regeneration and — not least of all — shaping outward physical appearance. (Beauty's skin-deep nature has long kept legions of dermatologists and cosmetologists in business.) All these critical functions may be lost when substantial areas of the skin are burned. As dozens of Station fire survivors would learn over time, which functions of the skin are lost, and which, if any, may be recovered, depend upon what regions of the skin are destroyed.

Our skin has three major interdependent functional regions. The outermost region,

called the epidermis, serves as the body's major barrier to vapor and fluid invasion. Without its protective envelope, we would be easy prey for water and airborne pathogens. Simple bathing would be suicidal, not to mention rather painful.

The epidermis itself consists of multiple layers. Its deepest is the basal layer in which epidermal cells begin their lives through division, later migrating toward the skin's surface, where, in a genetically programmed process, they lose their nuclei and become, for reproductive purposes, dead. They form a cornified layer of flattened, adherent protective cells at the skin's surface where they protect us like microscopic chain mail. About twenty-eight days after starting their journey from the epidermis's basal layer, the outermost epidermal cells flake off, their work complete — cellular lemmings, as it were, giving their all for our health and safety.

Below the epidermis lies the dermis. The dermis makes up the majority of the skin and provides it with its pliability and tensile strength. Shot through with a matrix of connective tissue called collagen, the dermis also contains sensory receptors, hair follicles, blood vessels, lymphatic channels, and nerve networks. The dermis is also home to two types of sweat glands: the kind that empty directly onto the skin's surface, and those that just ooze into hair follicles. Here, too, reside the microscopic structures critical to wound healing and regeneration. If the dermis is destroyed, as occurred with many Station fire victims, regeneration of skin is impossible; only grafting can provide necessary coverage.

The skin's deepest region, the hypodermis, is involved in the synthesis and storage of fat. It insulates the body, serves as a reserve energy supply, and cushions the outer skin layers and allows for their mobility over underlying bony structures. The hypodermis also contributes to appearance — the beauty of booty — by molding body contours. Excessive fat development in this region is the bane of dieters and the meal ticket of liposuctionists.

When skin is burned, the body produces both local and systemic responses to the insult. One local response consists generally of skin cell and blood vessel destruction, resulting in a white or charred appearance. Another local response, which carries the risk of systemic involvement, is rapid bacterial overgrowth and infection of the wound area.

It is the burn itself that enables this rapid, and potentially widespread, infection. In daily life we share our skin's surface with innumerable microbes, part of the normal bacterial "flora" on and in our bodies. Healthy immune and circulatory systems keep these free-riders from overpopulating. But when microcirculation and lymphatic structures within the skin are destroyed by heat, bacteria are allowed to multiply unchecked within devitalized (dead) tissues. In fact, when more than 40 percent of the body's surface is burned, without aggressive intravenous antibiotics, infection will spread throughout the body, often resulting in death.

The major systemic result of serious burns is fluid imbalance. Our bodies regularly

walk a hydration tightrope, achieving a precarious balance of fluid intake and output. Our digestive system, kidneys, and skin (through fluid retention and loss through sweating) play critical roles in keeping variances in hydration within tolerable limits. However, when large areas of flesh are burned, our capillaries leak copious amounts of fluid. When the body sends more fluid to replace it, it is immediately lost. Worse yet, lost fluid may not be replaceable by drinking, due to paralysis of the digestive system, which occurs when more than 20 percent of the total body area is burned. The heart races to make up for loss in blood volume. Without intravenous fluid resuscitation, burn victims risk death from hypovolemic shock, when the heart is unable to pump enough blood to make up for the loss of fluids.

Prior to Boston's 1942 Cocoanut Grove nightclub fire (the worst nightclub fire in U.S. history), the standard of care for initial burn treatment emphasized removing contaminants and devitalized tissue from the burn wound ("debridement"); unfortunately, many patients succumbed to hypovolemic shock during this horrifically painful process. However, the physician in charge of burn treatment at Massachusetts General Hospital at that time, Dr. Oliver Cope, was convinced that greater attention had to be paid to systemic fluid balance. As a result of his new treatment protocol, Cocoanut Grove survivors treated at Massachusetts General enjoyed better outcomes than their counterparts at Boston City Hospital. From that point onward, the standard of initial care for large burns would emphasize fluid resuscitation and infection control.

Human skin is pretty tough stuff. It can tolerate temperatures up to 104°F for hours before irreversible injury occurs. But above that temperature, depth of injury depends upon length of exposure. For example, a patron of The Station who stood upright in the club's atrium ninety seconds after ignition of the polyurethane foam, exposing his head to scorching temperatures five feet above the floor, would have had less than two seconds before the skin on his face suffered irreversibly deep injury.

And depth of injury is critical to survival, residual function, and appearance. Depth of burns is categorized by degrees: First-degree burns are red, dry, moderately painful, and involve only minor damage to the epidermis; they may slough the next day, but heal quickly without scar. Anyone who has turned lobster-red after exposure to the summer sun has experienced a first-degree burn.

Second-degree burns are red, wet, and blistered; they are painful and vary both in their damage to the dermis and their ability to heal without thick scars. They can, however, heal in two to three weeks without skin grafting. Many a slipped pot-holder has resulted in a second-degree hand burn.

Third-degree burns are leathery, dry, lack sensation, and have a charred or waxy appearance. They involve complete destruction of the epidermis and dermis, along with the latter's blood vessels, hair follicles, sweat glands, and nerves — a so-called "full thickness burn." Unless a third-degree burn is small enough to heal by the skin's

contraction over the devitalized area (less than an inch in diameter), skin grafting is always necessary to resurface the wound. Fortunately, most of us will never experience a third-degree burn.

Fourth-degree burns involve not only full-thickness destruction of the skin and subcutaneous tissue, but also underlying structures like fascia, muscle, or bone. Difficult as it is to imagine burning bone, it can and does occur, particularly where bones are small and near the skin's surface, as with fingers. Because devitalized bone (like devitalized soft tissue) must be surgically removed, fourth-degree hand burns may necessitate finger, or even entire hand, amputations. Several Station fire victims can attest to this.

Surprisingly, second-degree burns are far more painful in their initial presentation than are third-degree; this is because nerves remain intact in second-degree, but are completely destroyed in third-degree burns. For this reason, Station fire victims stumbling around the club's parking lot with blistered faces and limbs were initially in greater pain than their more seriously burned counterparts. Third-degree burn victims would eventually, however, far surpass their less-seriously burned friends in lifetime scarring and disability.

Because different areas of the skin conduct heat differently, location of the body areas exposed to heat may determine whether full-thickness burns result. The outermost layer of epidermis is an excellent insulator from heat; therefore, where it is thickest, as on the soles and palms, full-thickness burns are rare. Backs of hands, by contrast, are much more susceptible to irreversible burn injury requiring skin grafts. Shake hands with several of the more seriously burned Station fire victims: you'll often find their palms to be original equipment, and the backs of their hands, retreads.

The majority of Station fire fatalities did not succumb to their burns, however, but rather to inhalation injury. Inhalation injury is the most common cause of death in building fires. It occurs not only because of *what* is inhaled, but because of the *temperature* of what is inhaled. Either factor can kill, even in the absence of skin burns.

Reports of fire injuries commonly speak of "smoke inhalation." What we call smoke is actually a suspension of visible particles in air and toxic gases. The types of toxic gases produced depend upon the fuel being burned and the completeness of its combustion. For example, combustion of the egg-crate polyurethane foam on the west walls of The Station produced hydrogen cyanide (the same efficiently lethal gas used in execution chambers). Hydrogen cyanide interferes with the body's cellular utilization of oxygen.

The Station's burning polyurethane foam also produced carbon monoxide. Carbon monoxide kills by competing with oxygen for a ride aboard our bodies' red blood cells. And since carbon monoxide has over two hundred times the binding power of oxygen, it's no wonder that it so efficiently displaces oxygen for that hemoglobin

transport. Invisible and odorless, carbon monoxide emitted by something as mundane as an improperly vented home furnace can kill a family in its sleep.

Hydrogen cyanide and carbon monoxide together interact in a synergistic manner to depress the body's central nervous system, preventing fire victims from escaping. Thought is slowed; perception altered; judgment impaired. Victims feel sleepy, and unconsciousness soon follows. When Station patrons like Stephanie Simpson and Katherine Randall speak of a “knockdown” or “pass-out” effect from inhaling smoke that night, they are describing their own rapid central nervous system depression.

Polyurethane foam was not the only plastic that burned in quantity during the Station fire. In 1996, then club owner Howard Julian screwed two-inch-thick blocks of white, closed-cell *polyethylene* foam to the walls of the drummer's alcove — about 192 square feet of the stuff. The Derderian brothers later glued their egg-crate *polyurethane* foam on top of it. As soon as fire reached the polyethylene layer of the alcove walls, that burning foam produced acrolein, a potent chemical irritant of the eyes, nose, and lungs. Even if fleeing patrons wanted to keep their eyes open to find an escape route, their eyelids would have reflexively clamped shut in the face of this chemical onslaught.

The consumption of ambient oxygen by fire, even in the absence of toxic gases, can also injure or kill. Motor coordination is impaired when the ambient air oxygen concentration is about 17 percent; faulty judgment and fatigue occur at 10 to 14 percent; unconsciousness and death, at 6 to 10 percent. According to the NIST computer simulations of conditions within The Station, O₂ concentrations in the club's atrium dropped from a normal concentration of 21 percent to only 2 percent within ninety seconds. It is unsurprising that so many Great White fans died where they first fell.

The temperature of inhaled gases alone may eventually kill, even if not immediately. High temperatures can burn the trachea, resulting in swelling that narrows that airway ten to fourteen hours after injury. Unless stented open by intubation, that critically important air tube can swell shut, asphyxiating the victim.

With serious burns comes the possibility of fatal insult to circulation and respiration both *from within and without*. In a full-thickness burn, the skin forms a leathery outer layer called “eschar” (think overcooked meat). This eschar contracts as a result of the shrinking and hardening of collagen fibers within the skin that occurs with excessive heat. (Overcooking a pork chop under the broiler produces an eschar on its upper surface, curling the chop's edges upward; on a grill, its underside contracts, causing the opposite effect.)

If a burn victim's eschar is circumferential — as around a finger, arm, or leg — it can choke off blood supply to the extremity by trapping swelling tissues within its leathery case. Unless the pressure is relieved, the limb may be lost.

The situation is even worse if the circumferential eschar is on the neck or the torso.

As tissues burned from the outside and inside (through inhalation injury) swell within the neck, a constricting eschar can cause the airway to be compressed, strangling the burn patient long after his escape from the fire. Even if the patient is intubated, however, breathing may still be impossible if burn eschar encircles her torso. As the charred skin contracts, it can prevent her from expanding her chest to draw a breath.

For this reason surgeons perform “escharotomies” — lengthwise incisions, down to the fat — of fingers, arms, legs, neck, or torso. This release from its leathery straitjacket is done in order to keep the body from literally choking itself to death. Several of the more seriously burned Station fire survivors were able to salvage limbs through this procedure. Most of these burn victims were among the crowd that headed for the front door when fire broke out. Unfortunately for them, however, they were not at the front of the pack.

CHAPTER 16

DOMINO THEORY

SOME SAY A GIRL WAS THE FIRST TO FALL.

With the flood of patrons streaming out the double front doors of The Station, there began an exodus that, allowed to continue, would have saved most in the club. Erin Pucino, the Derderians' gas station clerk who had attended the concert on a free pass with her closest friend, Laurie Hussey, was part of this human tide. As long as people at the front of the pack exited the front doors as fast as those in the rear needed to move, the system remained in tenuous balance. But when burning plastic began to rain down, toxic smoke filled lungs, and screams of "We're burning!" pierced the air, instinct drove the scrum forward against those in the entrance corridor — the narrow area with the downward-sloping tile floor.

It was inevitable that someone in front would fall. As others behind that person tripped, they became additional obstacles. When a buzz-cut line-backer-size male threw himself over the top of the pile to escape, the die was cast. The narrow twenty-foot corridor to the front doors immediately filled with fallen club patrons, wedged diagonally like tipped dominoes, stacked floor to ceiling — and this occurred a mere ninety seconds after Great White's pyro first ignited the club's walls.

The only members of that unfortunate human pyramid who stood a chance were those, like Erin Pucino, trapped just short of escape with their head or arms extending out the front door. She and others lay within the isosceles triangle of temperature and oxygen tenability identified by the NIST researchers immediately inside the front doors. But even that location was no guarantee of survival.

In the seventeenth century, courts in the Massachusetts Bay Colony, fifty miles to The Station's north, sentenced convicted witches to "pressing" by stones until they could no longer expand their diaphragms to breathe. An equally cruel fate befell Station Fire victims at the bottom of the front-door pileup. One young woman within the stack, untouched by fire or smoke, was found on autopsy to have simply asphyxiated from the weight of those trapped above her.

From outside the front doors, the situation did not immediately look so bleak. Patrolman Mark Knott radioed in his "Stampede" call and picked himself up from the club's frozen parking lot. He watched as perhaps one hundred patrons streamed out the same doors through which he had been propelled moments earlier. His colleague, Anthony Bettencourt, popped out with the surging crowd, his radio microphone still attached to his uniform shirt's epaulet, but its cord ripped from the radio. For a few

moments, Knott thought that evacuation of the club would be successful, if not particularly orderly. Then he heard screams, and desperate people kicking at the atrium windows from the inside. When the first victims fell in the front doorway, Knott knew things would not go well.

Skott Greene, the genial proprietor of the Doors of Perception tattoo studio, and his buddy, Richard Cabral, were enjoying their status as personal guests of Jack Russell when Great White began its set. They both headed for the front doors as soon as it became clear that their free concert was over. Greene and Cabral soon found themselves in the immovable crowd between the performance space and the club's front doors. There they would spend the very brief remainder of their lives.

Among those near the front doorway when the crowd tipped "like dominoes" were John and Andrea Fairbairn. They were "an easy five steps from the door if they had been on their feet" — but they were not on their feet. John and Andrea were pinned to the floor, with John on top of his wife and another girl who lay motionless, spent from her struggle. Another man was yet below Andrea. The smoke was so thick that the only light came from the door opening. With the "sound of a freight train," a flame front ignited flammable gases over their heads, raining burning roofing and ceiling tiles on them all, singeing their hair and backs.

When a flaming piece of building material fell on the face of the girl underneath Fairbairn, he swiped at it twice, causing her to begin moving again. That slight movement freed his trapped leg, allowing him to wiggle one foot from its sneaker. He finally broke completely free.

But now only one of the Fairbairns was free. John turned back to the densely packed mass of humanity. He grabbed his wife under her armpits, and wrestled her from the pileup. Fairbairn dragged her to the parking lot below, where they both collapsed, exhausted.

Outside the scrum, Patrolman Bettencourt struggled to untie the knots attaching the Budweiser banner to the railing in front of the main doors, enabling people to slip under it to the parking lot several feet below. Terrified victims in the front of the stack of bodies reached out, imploring someone — anyone — to grab their arms. Several people attempted to, but were driven back by the smoke and heat, as well as by their natural fear of being clutched and held within the killing zone. One would-be rescuer was Jason Nadeau, a twenty-seven-year-old Pawtucket resident, who had earlier exited the club with his girlfriend. As he peered through the smoke filling the entrance corridor, Nadeau could dimly see Andrea Mancini, calmly standing at her position behind the ticket counter. He was the last person to report seeing Andrea alive.

Robert Cripe, a truck driver from West Warwick, had come to The Station with his girlfriend. Cripe managed to spring free of the front door just in front of the pileup, but his girlfriend, Sharon Wilson, was trapped at the bottom of the pile, unable to move. Cripe removed his leather jacket and extended it to her. With each of them

pulling as hard as humanly possible, Sharon managed to wriggle free of the bodies crushing her torso. She emerged alive and terrified, but without pants or shoes.

When Patrolman Knott heard kicking at the atrium windows, he extended his folding metal baton and smashed one of the few breakable low glass panels, clearing shards from its frame. Out tumbled three or four people. Knott pulled out several more, burned and unresponsive. He reached into the smoke, so thick and black that he worked by feel alone, pulling on anyone or thing within reach. He and a “heavy-set guy” pulled victims a dozen feet away from the club’s north wall; others dragged them farther toward Cowesett Avenue and safety. The last leg Knott pulled through the window was that of a bar stool. By then, the atrium was unsurvivable. It had been all of two minutes since Great White ignited its pyro.

Robert Riffe was in the crush of patrons forcing their way toward the front doors when he was stopped within inches of the outside doorframe. Riffe, twenty-two, had been an intern at WHJY a year earlier, but this night he and his close friend, Ryan Fleck, had come to The Station on their own to hear Great White. Riffe lost sight of Fleck in his rush to the doors. The narrow corridor to the front doors was fed from two sides — one from the performance space to the west and the other, from the horseshoe bar to the east. At their confluence all movement stopped.

Riffe managed to get his head and torso out the main door, so that he was breathing fresh air, but could move no farther. His legs were caught among the bodies wedged into the doorway. One man who had already escaped grabbed his arms, but quickly gave up. Somehow Riffe was able to turn onto his back, still in the middle of the stack. He reached desperately upward toward another man, Chris Scott, who pulled — and Riffe budged a little. Encouraged, Scott pulled harder, screaming, “Come on. You can do it! Get out! Pull, pull!” Even though Riffe’s legs were pinned within the pile, he was able to kick his shoes off. This gave him enough room to slip free.

Once free of the pileup, Riffe realized that his friend, Ryan, was still behind him, trapped and now burning. He stood frozen, screaming Ryan’s name and, “I’m sorry! I’m sorry!” Staggering in shock toward his car, Riffe was stunned to see Ryan waiting for him by the vehicle. He had somehow escaped ahead of Riffe. The two young men hugged, then turned in horror to see people tumbling, bloody and aflame, through the club’s windows.

Patrolman Knott saw that no further survivors would exit the atrium windows. The heat emanating from that area had begun to melt the plastic front bumper of a car parked nearby. He turned his attention to the front doors, where a scene from Dante’s

Inferno was unfolding. Bodies were stacked such that only a foot or two remained between the top of the pile and the ceiling. As unburned gaseous fuel met oxygen-rich outside air, flames erupted from that small opening. Knott grabbed “one or two arms” sticking out from the middle of the pile, but none would budge. Then, he dragged a “thin guy with stringy black hair” over the top of the stack, his back afire. Turning again to the stack, he found the *next person’s* back already on fire. Everyone within the pile was screaming to him for help. Knott removed his Gore-Tex jacket, afraid that it would melt onto him. In fact, roofing tar from The Station’s entranceway did just that, dripping onto both the trapped and those attempting rescue.

Elizabeth Arruda had come to The Station with her boyfriend, Derek Silva, and their friend, Tom Marion, a twenty-seven-year-old Wal-Mart furniture department manager. All three had been up front near the right corner of the stage when Great White set up their instruments. But Elizabeth had a headache, so the group moved back toward the main bar immediately before Great White began its abbreviated set. When the pyro went off, Arruda thought the special effects strange for such a has-been group and small venue. When flames appeared on the walls, Tom Marion said to her, “Oh, my God, I think the stage is on fire,” and immediately turned Elizabeth around to move her toward the front doors. She could not believe her ears when she heard some people saying, “Wow, this is so cool.”

Arruda held on to Derek Silva’s jacket, and Tom Marion clung to her side as the trio moved with the surging crowd. When they got as far as the front hallway, the smoke obscured all light. Elizabeth covered her face and held fast to Derek’s jacket. Tom told her, “Just hold your breath; we’re almost at the door.” Arruda was horrified to be stepping on fallen bodies — people who had been overcome by the smoke. Others around her screamed, “I can’t die like this.”

When they got near enough to see outside light, there was a stack of people in their way. Derek Silva climbed over the pile, but became wedged on top. He managed to grab an outside railing and free himself, but Elizabeth was left behind. Tom Marion picked her up and pushed Elizabeth over the top of the human stack, but her sneakers got stuck. Derek Silva pulled on her arms with such ferocity that she feared their dislocation, until finally she slipped out of her sneakers and popped free, arms and back seriously burned. Her friend Tom remained trapped behind the pileup.

Several survivors who escaped the crush of the front doorway described a particularly terrifying phenomenon. Just as they began to make progress toward freedom, they felt themselves being “pulled back” into the suffocating scrum by people behind them desperate for any handhold or leverage. Similarly, anyone climbing over the stack effectively propelled others beneath him backward. With death licking at their backs, it was every person for him — or herself.

Erin Pucino was still trapped in the pileup. She lost contact with her friend Laurie

Hussey in the smoky blackness, then found herself wedged in the pile with a man beneath her and several on top of her. Her arms, shoulders, and head extended from the front doors. Erin could breathe, but she could not escape.

Several people pulled on her arms, but her torso remained pinned. One man attempted to distance himself from the smoke and blistering heat (and, perhaps as well, from desperately grasping hands) by removing his jacket and offering it to her at arm's length. It was no help. The same man was, however, able to free his girlfriend from beside Erin. But Pucino remained trapped, both legs wedged tightly as if in a giant vise.

With smoke billowing over the top of the human pyramid, Pucino finally wriggled one leg free, then the other, until rescuers' traction on her arms pulled her free of her co-prisoners. Her legs completely numb from the crush, Erin dragged herself down the club's concrete steps, then pulled herself to her useless feet by grabbing a car bumper. As she turned back toward the front doorway, where seconds earlier she had been captive, Pucino saw it completely engulfed in flames, silhouettes writhing within.

Late-arriving Gina Gauvin had made it as far as the front doors when she was carried over the crest of the toppling human wave, then trapped with her head and arms outside the pileup. Rendered unconscious by smoke, she never felt the flames consuming the flesh of her scalp, torso, and arms. Rather, her next conscious sensation was cold water from a fire hose, pounding her face. Revived by the water, Gauvin kept yelling that she was alive. But the firemen were unable to pull her loose before removing several people from on top of her. Once they freed her from the stack, firemen lay her on the ground and hosed her down in the 20-degree cold. She would eventually emerge from a medically induced coma six weeks later, having been treated for third- and fourth-degree burns over 60 percent of her body.

Once Erin Pucino regained feeling in her legs, she shuffled, zombielike, around The Station's parking lot searching for her friend Laurie Hussey. By then, flames had engulfed the entire building and firemen were retreating from the collapsing structure. At that point, the club was no more than a huge funeral pyre. Barely ten minutes had elapsed since Great White set off its pyrotechnics, and now all hope was lost.

Pucino reached for her cell phone and punched in Laurie's home number. She had lost her best friend in the crush of escape, and now she would break the terrible news to Laurie's husband, who had stayed home that night with their two children. As Pucino tearfully explained the tragedy to him, the connection suddenly went dead. Laurie's husband had disconnected to take a waiting call — from Laurie, shivering in another corner of the parking lot. She had suffered only minor burns. Laurie thereafter got through to Erin's cell with the news: they had both been spared.

CHAPTER 17

THE SOUND AND THE FURY

“OH, MY GOD! OH, MY GOD! I HAVE CHILDREN!” screamed one woman at the back of the pack, imploring the crowd at the front door to miraculously part and make an exception for her. But she was not exceptional. Sixty-four children under the age of eighteen would lose one or both parents at The Station that night.

Her terrified voice was picked up by Brian Butler’s video camera, just as he exited the front doors. Butler’s real-time record of the fire continued thereafter, but from an exterior vantage point. Initially, there was believed to be no further audio or visual record of events within the club after he exited. However, that belief changed with discoveries in the months and years following the fire.

In the new millennium, it is unlikely that any newsworthy event will ever go unrecorded. Most adult Americans carry with them a camera phone (and many of them actually know how to use its camera function). High-resolution digital cameras and audio recorders are now small enough to fit in a pocket. Thus, not only was the Station fire videotaped professionally by Brian Butler, but several patrons brought visual or sound recording devices along to the concert. It was inevitable that some would be in use when tragedy struck.

Joe Cristina and Matthew Pickett came from nearby southern Massachusetts to see Great White at The Station. Joe owned every one of their CDs. The pair had been to the club five or six times before to see groups like Slaughter, the Bullet Boys, and Lynch Mob. Neither was drawn there by the Budweiser promotion. Matthew had recently celebrated his seventh year of sobriety and was engaged to marry in the fall. But rock ’n’ roll, as the song goes, is a harder habit to break.

The two arrived at The Station fully prepared to memorialize their Great White experience, Joe with digital camera in hand and Matthew with his Sony DAT (digital audio tape) Walkman recorder tucked in the pocket of his denim jacket. Matthew was a collector. He collected photos, records, and tapes, often of groups he’d seen in concert. He had no idea that on this night he would collect sounds depicting The Station’s descent into hell.

When Joe Cristina and Matthew Pickett entered the club, they found it more crowded than they had ever seen it. The men elbowed their way to Linda Fisher’s table in the atrium area, where they checked out band merchandise. They watched as Brian Butler filmed the crowd for Channel 12, and listened as Dr. Metal worked up

the Great White fans, throwing merchandise into the audience.

When the featured act began, and its pyro went off, Joe and Matthew were standing fifteen feet in front of the large speaker to the right of the stage. They saw the gerbs' glare, but not the flaming walls behind them. As people started to retreat, Joe initially thought it was because a fight had broken out. Immediately thereafter, both of them noticed the flames. Matthew urged Joe to take a photo of the fire. Then, the two of them paused briefly while the area in front of the stage cleared, so they could take a good picture. Joe snapped one shot, the last taken inside the club, then headed for the front door, at which point he and Matthew became separated in the smoky darkness. Joe knew about the stage door exit, but did not want to go toward the flames, which by then extended above that nearby doorway.

In his rush to leave, Joe dropped his camera, bent to pick it up, and stuffed it into his fanny pack. This action may have saved him from a knockdown lungful of toxins, because by then the smoke layer had descended to mid-chest level. Blackness overtook him. He covered his nose with his shirt and began crawling on his hands and knees. He was in this position when someone trampled his leg, knocking his right sneaker off. Joe did not know where he was, but briefly saw a spot of light to his left and someone going through that spot. He crawled toward the light, tucked his head, and dropped out what he later learned was an atrium window. Once outside, Cristina made his way to a snowbank and plunged his heat-blistered hands into it.

Matthew Pickett's DAT Walkman remained in the pocket of his jacket, which was recovered from the ashes of The Station the next day, along with his lifeless body. At Matthew's funeral, an employee of the funeral home delivered two plastic bags to the family of the deceased. They contained Matthew's personal effects. One of his brothers placed the bags in a closet in his parents' home, where they remained, unexamined, for almost a year. In early February 2004, another brother removed the bags from his parents' house and brought them to his home, where he examined their contents: they included credit cards, heat-fused into a ball of plastic, and a soot-blackened Sony DAT Walkman, scorched but otherwise intact. He contacted the Rhode Island State Fire Marshal's Office about his find, and a detective from the West Warwick Police Department took custody of it, almost a year to the day after the recorder last saw use.

Joe Cristina's single image from inside the club would not have to wait nearly as long as Matthew Pickett's tape to be studied. Two months after the fire, Joe delivered a floppy disk with that photo to the West Warwick police. And a strange photo it was. This final image recorded within the burning nightclub reveals, at the left edge of the frame, Matthew Pickett's striped sweater sleeve. In the background is the stage, with walls and amplifiers fully engulfed in flames. At the photo's right edge, a wooden pillar separates the atrium from the stage area. And in the center of the photo stands a man with shoulder-length hair, rimless eyeglasses, and an expression of utter calm. In

his right hand he holds a lit cigarette at his side; in his left, a drink. His jacket is casually draped over his left forearm. On the left breast of the man's shirt appears the logo of a California rock group, Tesla. The smoke layer has descended almost to his head. In a few seconds it will be opaque and unbreathable. The man's preternatural calm suggests, perhaps unfairly, that he neither knows nor cares.

Not visible in the picture, but about fifteen feet behind and to the man's left, is the open stage door, which he knew well. He had worked as a roadie, loading in several rock groups, including Tesla, through that door. His name was Jeff Rader. And he never made it out.

Rader, thirty-two, lived with his mother in Danville, California. Drawn to rock 'n' roll at a young age, Rader had been traveling with bands like Great White and Tesla, hauling their gear and setting up instruments. It was on a trip to Rhode Island six months earlier that he met his girlfriend, Becky Shaw, twenty-four, of Warwick. Regular visits east to see her followed. During his visit in February 2003, Jeff and Becky surprised Great White by meeting them at The Station during their load-in. His reunion with John Kubus, Great White's bus driver, was a happy one, and the two of them drove Becky's car on errands that afternoon.

Rader and Shaw returned to the club that night for Great White's appearance. No one knows where Becky was standing when the band's pyro went off. She, too, perished inside the club.

Joe Cristina's last picture of Jeff Rader is like a Rorschach test for its viewer. Several interpretations are possible. Does the subject not appreciate his imminent danger? Is he observing the crowd backed up at the front entrance, perhaps looking for Becky Shaw within it? Is he beginning to walk in the direction of the front entrance? Is he fully cognizant of the futility of any escape attempt and calmly resigned to his fate?

What is clear is that Rader did not turn and sprint out the open band door, just fifteen feet behind him. Whether that was because he was loath to leave without Becky, or naturally hesitant to head toward the flames, Rader's failure to use a nearby exit with which he was familiar may have been at least partly due to the naïveté described by Professor Proulx in her work on crowd fire behavior. We know that we can stand in front of a fireplace for hours without injury. The idea that a structure fire can overtake and kill in seconds is quite foreign to us. That innocence of fire's rapid destructive power costs victims critical seconds — and, frequently, their lives.

One question raised by Joe Cristina's last photo inside the club is whether, at the moment it was snapped, it was too late for Jeff Rader to escape through the stage door. The answer to that question would not come until years after the fire, and would require Matthew Pickett's posthumous assistance.

When Detective Roland Coutu of the West Warwick Police Department took custody of Matthew Pickett's singed Walkman a year after the fire, he knew that

examining its contents was a job for a specialist; the recorder's cassette hatch was fused shut, and Coutu had no idea if the digital tape inside contained data of any kind, much less sounds from the night of the fire.

Because fireworks had sparked the Station blaze, the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) had been involved in its investigation from the outset. Steve Greene, an audio/video forensic specialist at ATF, was tapped to look into Matthew Pickett's Walkman. His work did not begin in earnest until November 2004.

The ATF investigator began by using a center punch, X-Acto knife, and spacer tool to pop out the cassette drawer. What he found inside was encouraging. The digital audio cassette's "record protect" tab was in the "off" position, indicating that the device could have been operating at the moment of the fire. But the condition of the cassette itself gave him pause. It had burn and soot damage "everywhere." There was no way the tape could be successfully played within that cassette. Greene would have to disassemble the cassette itself, remove and clean the tape, and then transfer it to a new cassette for attempted playback.

Restoration of the Pickett tape stretched into January 2005, almost two full years after the fire. At that time, Greene successfully opened the heat-damaged cassette and removed its tape from the two spools within. He unwound the thin tape to expose its most damaged and dirty sections, cleaning them with liquid Freon (the same refrigerant/solvent used in air conditioning systems) on the end of a cotton swab. Fearful of removing magnetic material, Greene went easy with his cleaning, and then placed the tape into a new cassette housing. He hand-rewound the tape past its most damaged section, placed the cassette into a new DAT Walkman, and pressed "rewind."

The tape immediately broke.

Greene excised a small weakened section of tape (preserving it separately as evidence), then spliced the cut ends and rewound the entire tape — this time by hand. Placed back in the Walkman, the reconstructed cassette ran smoothly. Greene transferred its data to a computer, which "burned" it onto a CD.

The result of Steve Greene's restoration work is a chilling audio glimpse where no one should ever look. But to turn away is to blind ourselves to the terrible reality of what can happen to people when negligence and greed trump concern for safety.

Pickett's tape begins with fifteen minutes of pre-Great White crowd noise, recorded background music, and snippets of pleasant conversation between himself and Joe Cristina — talk of other concerts; speculation as to when Great White will come on. Then, Dr. Metal can be heard onstage hawking Budweiser and pumping up the crowd. A few minutes later, the opening chords of Great White's "Desert Moon" are reproduced with perfect digital fidelity. Eight bars of instrumental introduction; then crowd roar as the gerbs erupt; twelve more bars of introduction before Jack Russell's vocals begin.

Great White's front man is into his second line of lyrics when a girl yells, "Get out, fire!" Three seconds later, the band stops playing. Mark Kendall's lead guitar line is the last to trail off. Four seconds thereafter — at seventeen minutes and thirty-four seconds into Matthew Pickett's tape — Jack Russell declares, "Wow. That's not good."

Another four seconds after that, a man shouts, "*Get the fuck outta here!*" And five seconds later, Matthew Pickett yells, "Joe! Joe! Take a picture!" Joe Cristina then snapped his single photo of Jeff Rader standing in front of the stage, before making his own narrow escape through an atrium window.

The Pickett audiotape continues for another ten minutes. Its contents are probably worse than most of us would care to imagine. As fire science suggests, many victims were instantly rendered unconscious by smoke, and thereby spared suffering. However, Matthew Pickett's audiotape also teaches that pain and despair do not discriminate by sex, and pleas to be rescued by God or man may go unheard. In the end, its only sounds are the crackle, hiss, and pop of flames, indistinguishable from those of logs in a fireplace — sounds that in a different setting can be so comforting, but are here so profoundly disturbing.

Sadly, comparison of Joe Cristina's "last photo," Matthew Pickett's audiotape, and Brian Butler's videotape confirms that Jeff Rader missed a brief opportunity to escape through the band door after his picture was taken. Using Jack Russell's "that's not good" declaration as a synchronization mark on both the Pickett and Butler tapes, patrons can be seen exiting through the stage door on the Butler video at least ten seconds after Matthew Pickett yelled, "Joe! Joe! Take a picture." Had Rader wheeled to his left and run out the band door immediately after Joe Cristina snapped his picture, he may have escaped along with those other persons. But that would have required running *toward* the flames — and away from Becky Shaw.

Disaster sociologist Lee Clarke notes that "people die the same way they live, with friends, loved ones, and colleagues — in communities. When danger arises, the rule — as in normal situations — is for people to help those next to them before they help themselves." There is a strong tendency among individual victims to seek out friends or family and to do what those others are doing, despite what more reasoned analysis might suggest for the individual. Faced with unfamiliar life-threatening situations, humans appear to embrace groupthink and loved ones, often to their individual detriment. This phenomenon may have played a role in Rader's, and other victims', fates that night.

While Matthew Pickett's recorder was memorializing sounds inside The Station, Brian Butler's video camera continued to record the scene outside the building. As Butler clears the front doors, a woman on the tape keens, "Where's my husband? *Where's my husband?*"

Butler's camera remains on as he squeezes past the atrium windows, through the

narrow corridor left by Great White's bus, which was parked parallel to them. At the building's northwest corner, Butler's lens captures a cluster of band members and patrons standing outside the stage door, gazing, stunned, at flames already roaring through the roof of the drummer's alcove. Less than twenty seconds after his own exit, Butler circles back toward the front door. On his tape, a goateed man with glasses tumbles out a broken atrium window and sprints away. Black smoke belches from the window behind him as if pumped under pressure.

Ten paces later, Butler's camera pans across the human pyramid blocking the front double doors. At least fifteen people are visible, jammed into that opening. Some are face-down. Others face-up. Still others, sideways. All wide-eyed in horror, appealing for help. Near the bottom of the pile, Erin Pucino can be seen reaching up toward the man in the leather jacket.

For the next six minutes, Butler's camera continuously records events outside the club. On the tape, rescuers tug furiously at people stuck in the front-door pileup. One removes his leather jacket to extend to Erin. Shamus Horan pulls victim after victim through bar windows. Jeff Derderian appears in several frames, stepping near the front door and tugging on the Budweiser banner across its railing. (He doesn't appear to pull on anyone jammed in the doorway.) Victims stagger through the parking lot, burned and bloody after climbing through broken windows. Dozens of patrons are galvanized into action, helping in any way they can. An equal number stand frozen in shock at the unfolding horror.

Two and a half minutes after first filming the pileup at the front door, Brian Butler walks back around the band bus, returning to the stage door. On his tape a man yells, "Brandon, Brandon!" for a missing friend. Anguished screams pierce the night air. As Butler rounds the front of Great White's bus, a man with badly burned face and hands stumbles forward, his arms outstretched and eyes saucer-wide. A voice barks, "Get this bus out of here!" Another (likely Dan Biechele) replies, "I'm trying to."

Back at the stage exit, the repeatedly rehung door can clearly be seen. No smoke pours from this door; rather, it appears to be a source of air feeding the fire. Inside, black smoke roils within two feet of the floor. Flaming puddles of melted polyurethane foam lie about. Butler can be heard yelling, "Anybody inside?" Silence.

Behind the club, flames are shooting from the building's eaves; smoke seeps from every wall crack of the fractured, flaming roadhouse. On the video one can see different-color siding outside the dead-end corridor to the club's bathrooms. Subsequent investigation would reveal this to be the location of another door, removed long ago by a prior tenant or owner.

Butler returns to the front of the club, where his video captures victims collapsed in the parking lot, Harold Panciera calling for a "medic" with the unconscious man over his shoulder, and Dan Biechele tugging at the fire hose stuck beneath a car tire. Then, as flames roar from the front doorway, the first water stream is directed toward the

unfortunates still trapped there. It is only six minutes since Dan Biechele touched wire to battery, kicking off Great White's show.

One minute after firemen began hosing down the front entryway, Butler placed his still-running video camera on the asphalt parking lot beside his WPRI-12 vehicle. He punched his cell phone and spoke with management back at the TV station. The videotape's audio track recorded Butler breathlessly instructing, "You need a live truck down here *right now*. There are *multiple, multiple* deaths in this thing."

CHAPTER 18

INTO THE BREACH

NEARLY AN HOUR AFTER HOSE STREAMS had begun soaking the stack of charred bodies in The Station's front entrance corridor, police and firemen began the grim task of disentangling and bagging human remains. As one fireman approached the smoldering pyre, a hand thrust out from beneath it, grabbing one of his boots. This was not possible.

Raul "Mike" Vargas, the GNC store manager, had been standing about three rows back from the stage when fire broke out. He was aware of the stage door, but saw that some people who first headed toward it were turning back. He heard someone yell, "This is for the band only." So Vargas joined the human tidal wave rushing the front doors.

When people fell in front of him, the force of the crush behind him caused him to fall, too, and he soon became wedged under several layers of bodies, lying on his side, in a fetal position, his head about a foot from the outside doors. Since he was curled on his side, the weight of those above him did not compress his chest, as it would have had he lain prone. Vargas lay on the red tile floor, hands to face, within a small triangular wedge of space just within the doorway. He heard the screams of victims piled on top of him and thought of someone telling his wife and son that he had died. Fortunately, a small stream of fresh air seemed to flow past his face under the pile. A few times, when he felt liquid pouring over him, Vargas understood that death or terror had loosed the bladder of someone above him in the stack. Yet he remained calm. The only heat he felt was from the bodies wedged around him.

"If [I] freak out, I'm going to die," thought Vargas. So he forced himself to remain still — long after all around him stopped moving and screaming; through the conflagration and the subsequent fire hose deluge. As the cold water from firefighters' hoses ran down his face, Vargas rinsed his mouth and spat soot and cinders. With his hands, he was able to clear the water/ash mixture from his eyes. Then, he waited, conserving his energy. Vargas heard a fireman remark, "My God, they're all dead." When a boot first came near, he reached out for it.

Freed of the bodies on top of him, Vargas sat up. The persons beside him and on top of him were dead — burned so completely that he could not tell if they were male or female. Then, Vargas stood, descended the club's concrete steps, and began walking to his car, with firefighters staring in disbelief. "Don't look back," Vargas

thought. “If I look back, I’ll really be messed up.” Firemen insisted that he be placed on a gurney and transported by ambulance to a hospital. When they took his vital signs, EMTs noted the time — 12:35 a.m. — ninety minutes after the fire’s outbreak.

Mike Vargas was discharged the following afternoon from Miriam Hospital in Providence with small burns on his left leg. Several days after the fire, he returned to The Station and gazed down at the red tile floor where he had lain. It was heat-blackened, except for the small patch of tiles that had been directly beneath him.

Lieutenant Roger St. Jean was a sixteen-year veteran of the West Warwick Fire Department, assigned to Station 4, only a half mile from The Station on Cowesett Avenue. On February 20, 2003, he was working on D Platoon, a night shift beginning at 5:30 p.m. and ending at 7:30 the next morning. St. Jean was responsible for Engine 4, his station’s pumper truck. (Each station had a pumper truck and ladder truck referred to by the station’s number — that is, Ladder 1 was the ladder truck from Station 1; Engine 4, the pumper from Station 4.)

Firehouses still use fire bells. Some still use poles. At 11:10 p.m. the bell at Station 4 sounded, and the intercom barked that there was a “building fire at The Station” that had been reported by police. St. Jean and his partner on Engine 4, Private Aaron Perkins, knew by the reference to a police call that this was the real thing. In seconds, Engine 4 was roaring out of its bay with Perkins behind the wheel and St. Jean manning its radio. It was followed immediately by Ladder 4, staffed by Privates Norman Landroche and David Pimental.

Given the close proximity of Station 4 to the fire, it was only a minute between St. Jean’s “on the way” radio transmission and his ominous report as “first-in engine.” “Heavy fire showing,” advised St. Jean. The intensity of the fire suggested to the lieutenant that it was “being fed by something . . . almost like a gasoline-fed fire.” Considering the thousand square feet of hydrocarbon-based plastic foam lining the club’s walls, he was not far off.

Engine 4 came to a halt perpendicular to the club, less than one hundred feet from its front door. Flames shot from windows and out the front entrance, where victims still lay jammed in the doorway. St. Jean pulled an inch-and-three-quarter “attack line” off the truck, while Perkins manned the pump that would deliver the contents of the truck’s 750-gallon tank on St. Jean’s command. The lieutenant began to spray inside the front entrance with his hand line, trying to knock down the flames roaring about the trapped victims.

Ladder 4’s crew arrived just after Engine 4 and parked their truck on Kulas Road, to the club’s left. They ran to the front entrance and took over St. Jean’s line. St. Jean grabbed a second hand line off Engine 4 and rejoined the fight at the front doors.

At one point, St. Jean turned to Patrolman Mark Knott, who stood near him at the front doors. “Is my back on fire?” shouted St. Jean. It was not, but melting roof

shingles above the doorway were dripping hot asphalt onto the firefighter's turnout jacket, heating his skin right through its fireproof material. The unfortunates entangled at his feet lacked any similar protection.

Under standard firefighting protocol, building fires are fought from within using hand lines until the presence of live occupants and salvage of the structure have both been ruled out. Given the extent of fire involvement when firefighters first arrived at The Station, lifesaving was the immediate and sole objective. Firemen wielding hand lines within the structure sought to establish search/rescue paths through doors and use their streams to "fog" or spray, such that volumes of water droplets would immediately absorb BTUS and quell the blaze. During this "offensive" phase of firefighting, use of high-pressure, high-volume "master stream" devices such as fixed or portable deck guns, ladder guns, and aerial platform guns is generally out of the question. These water cannons can each deliver upward of one thousand gallons per minute, and their recoil force is such that they must be anchored to ground or truck. Their streams are capable of knocking down walls and gravely injuring firefighters or civilians in their vicinity. Nevertheless, the Station fire was so advanced, and the need to drive flame back from the front entrance so urgent, that engine deck guns and an aerial platform gun were actually brought into play while firefighters still searched for survivors.

This was accomplished by Fire Captain Kevin Sullivan standing on Warwick Ladder 1's aerial platform, where he could observe the positions of firefighters working within the building's wreckage. Using hand signals, Sullivan would alert firefighters before sweeping their area with the massive water cannon.

Engines and ladder trucks from other West Warwick stations and two nearby communities arrived in short order, connecting to hydrants on Kulas Road, Cowesett Avenue, and Narragansett Avenue with three- and four-inch supply lines. The group effort was not, however, without the inevitable minor miscues that occur during firefighting's fog of war.

Two three-inch supply lines laid from the Cowesett Avenue hydrant to West Warwick Engine 2 blocked the street, preventing positioning of the Warwick tower ladder truck. They had to be disconnected to let Warwick Ladder 1 pass. Then, one Cranston fire company mistakenly laid a four-inch supply line from the Narragansett Avenue hydrant directly to Warwick's Ladder 1, a tower ladder with a platform gun, but no pump. When the absence of water pressure became apparent, West Warwick Engine 4 shut down its deck gun and began pumping water to Warwick Ladder 1, providing it with sufficient pressure for Captain Sullivan to use the master stream gun on its aerial platform.

West Warwick's Special Hazards Unit parked at the corner of Cowesett Avenue and Kulas Road. There, its crew extended the truck's light tower thirty feet skyward and aimed it at what was left of The Station, blessedly turning night into day for the

harried rescuers.

About thirty minutes into the firefighting/rescue effort, the atrium wall collapsed, and several firefighters were hit with falling debris. As a result, the incident commander, West Warwick chief Charles Hall, ordered the structure evacuated and a personnel accountability roll call (PAR) taken. Sirens and air horns on the assembled vehicles blared, and a radio alert went out to call back all firefighters. Each department conducted its own head count. All men were accounted for. Because some live victims might still be inside, however, Chief Hall immediately ordered firefighters back into the building to continue their feverish work.

Firefighters at The Station fought not only fire, but cold as well. Over a foot of snow had fallen in the previous two days. West Warwick Engine 1 laid three hundred feet of four-inch supply line to a hydrant on steeply sloped Kulas Road. From its position alongside the club, Engine 1 then directed its deck gun on the blaze. It was not long, however, before spray from the deck gun, combined with freezing temperatures, glazed Kulas Road with ice, causing Engine 1 to slide down the hill, where it hit West Warwick Ladder 1 before coming to rest. Nothing would be easy that night.

Several West Warwick policemen heard Patrolman Bettencourt's initial radio call that "The Station's on fire" and Patrolman Knott's terse "stampede" transmission seconds later. Detectives Gary Appolonia and Brian Araujo, already on the road, sped toward the scene in response. As they crested the hill nearest the club, billowing smoke told them things would not be good. What they saw as they drew closer exceeded their worst fears: men and women staggering, the flesh of their limbs and faces melted; victims running from the club in flames; others collapsed in the snow with hair and clothes still afire. All the detectives could do was assist some victims in moving farther from the heat of the building. The sheer number of wounded was overwhelming.

Patrolman Jason Senerchia approached The Station that night with more trepidation than many of his brethren. His lifelong friend, Christopher Arruda, was a Station regular and had invited Senerchia to hear Great White with him. But Jason had a shift to work, and begged off. Now he looked across at the parking lot of the Nissan dealership across from the club — to the space where Chris Arruda always parked his pickup truck. Sadly, Arruda's green Ford Ranger occupied its customary spot. Senerchia never spotted his friend that night among the escaped patrons and walking wounded. It would be three days before he learned that one of the bodies recovered from the club's wreckage was Arruda's.

After a while, temperatures near the building exceeded tenability for anyone without full firefighting gear, particularly helmet and face shield. As a result, policemen Bettencourt and Knott retreated to the club's left, toward Kulas Road,

where they paused to catch their breath. Bettencourt allowed his gaze to rise slowly toward the heavens. “The power lines!” he yelled. The electric wires feeding the club from a transformer on the pole directly above them were crackling. Both cops bolted and were in mid-stride when a small explosion brought the lines down on the spot where they had stood only seconds earlier.

Patrolman Stephen Vannini was among the first cops to respond to Bettencourt’s call. He had been at The Station only thirty minutes earlier, “assisting” Bettencourt with his security detail, along with Patrolman Knott. Called out to the same domestic disturbance as Knott, Vannini was disappointed at having to leave the club just minutes before Great White came on. He had no idea he’d be back so soon.

When Vannini pulled his cruiser into The Station’s parking lot, he immediately noticed a blond male lying on the pavement, near the club’s roadside sign. “He appeared dead, with a massive head injury,” recalls Vannini. He saw the building completely engulfed in flames and people running from it, similarly aflame. He yelled to them, “Roll in the snow!” He ran to several, trying to pat their flames out with his gloved hands. When Vannini saw rescuers at the broken bar windows pulling burning victims to safety, he assisted by dragging the injured farther from the burning building.

Several victims lay in the parking lot, still smoldering. Hoping to cool them down, Vannini grabbed extinguishers from fire trucks, wielding one and handing others to civilians. When he pointed his extinguisher at one badly burned victim, its stream came out too hard, tearing burned skin off the man’s body. Vannini tried applying snow, instead.

Around the parking lot, psychological injuries were as prevalent as burns. Officer Michael Sullivan of the Warwick police arrived on-scene to find “several dozen” persons who had suffered burns to the head, arms, face, and hands. On the pavement lay multiple bodies. Amid this horror, one survivor approached Sullivan, the nearest uniformed authority figure, in desperation. “My wife is in there. We have three kids. What am I going to do?” he pleaded. With no answer possible, Sullivan turned to another man to check his condition. The second man’s “thousand-yard stare” reflected psychological decompensation. “You have no idea. You have no idea. Stay away from me. Don’t even come near me!” repeated the obviously traumatized man. Believing both subjects to be physically unharmed, Sullivan left to assist other victims.

Great White’s tour bus was parked lengthwise a few feet from the atrium windows, where it blocked half the small building’s width, impeding firefighters’ efforts. West Warwick policeman Sean Duffy demanded that it be moved, and Dan Biechele tried his best to comply. But Biechele was the band’s road manager, not its bus driver, and he didn’t know how to release the huge vehicle’s brakes.

The telephone in John Kubus’s room at the Fairfield Inn motel startled him out of sound sleep at 11:21 p.m. As Great White’s bus driver, his routine was generally to

drive while the band slept, and sleep while they played. It was Dan Biechele on the phone, wanting to know how to release the brakes on the bus. Kubus asked why, but Biechele didn't answer. Kubus told him where the release was, and Biechele said, "Hold on," putting the phone down. Kubus could hear excited voices in the background. About thirty seconds later, Biechele picked up the phone and told Kubus, "There's a fire at the club — I'll call you back."

Assuming it was just a small fire, Great White's driver rolled over and went back to sleep. Around 12:30, Biechele called again. This time Kubus asked, "How's my bus?" Biechele told him that his bus was fine, but that their rhythm guitarist, Ty Longley, was missing. Only then did Kubus appreciate that this was no "small fire."

Back in a parking lot across the street from the burning Station, David "Scooter" Stone, the club's light technician, stood shell-shocked. He had to be in an ecstasy of fear. Stone had been present for multiple pyro bands at The Station, and had even assisted his lighting mentor, Frank "Grimace" Davidson, as he wired up Human Clay's New Year's Eve pyro show. Scooter was told by Dan Biechele that night that Great White would use pyro, so that the light tech could execute the right cues. He had no idea this night's pyro would be any different from prior. Stone had escaped with other club employees through the little-known kitchen door. And now, he watched The Station burn.

As Stone stood staring at the inferno, his cell phone rang. It was his on-the-job lighting and pyro instructor, "Grimace" Davidson. Grimace had been watching the 11 o'clock news on TV when a "breaking news" bulletin announced that The Station was in flames. Suspecting that pyro had something to do with it, Davidson immediately called Stone, demanding, "What the fuck happened, Dude? Was it the pyro?" Stone stammered, "Dude, it looked fine to me. I don't know." Then, Davidson heard the call disconnect. He had to figure that his upcoming video pyro shoot, scheduled by Station manager Kevin Beese for the following Monday, would not be going forward.

Later that evening, when the flames had been knocked down and the fire "called," Roger St. Jean and Aaron Perkins from Fire Station 4 were relieved of duty. They stood at the canteen truck that served first responders, gulped coffee in the frigid air, and tried to make sense of the horror surrounding them. A man with chin-length dirty-blond hair stepped out from the shadows and asked, "Everybody make it out all right?" His question was met with stunned silence. The man was Jack Russell.

The Cowesett Inn was a great place to get out of the cold on the night of February 20, 2003. Across the street from The Station, the restaurant bore little resemblance to its shabby neighbor. Polished oak and brass dominated its furnishings. That night, two drunks slumped on its comfortably upholstered barstools.

They sat with backs to the front door, but the mirror in front of them reflected all who entered the restaurant. What they saw in that mirror at 11:10 p.m. would put an

abrupt end to their quiet reverie. The Cowesett Inn was about to become a field hospital.

As he stepped from his fire truck, Captain Kevin Sullivan was immediately met by a throng of walking wounded. He gathered as many as he could and called for them to follow him. Walking backward and motioning with his hands, Sullivan led his charges across the street and through the front doors of the Cowesett Inn — a Pied Piper in turnout gear. He would later learn that West Warwick police sergeant Thomas Hannon had secured the restaurant for use as the primary triage area.

The two drunks looked up as still-smoking burn victims stumbled through the doors reflected in the bar mirror. They were followed by a phalanx of shocked, bleeding, and burned victims, many with arms outstretched, like extras from *Night of the Living Dead*. This group was soon joined by even more seriously burned victims who had been loaded into the open cargo beds of pickup trucks in The Station's parking lot, two and three at a time, to be transported to the triage area. Once all were inside, it would take a Herculean effort to create order amidst bedlam, prioritize treatment, and arrange for transportation to hospitals. Fortunately, several professionals rose to the challenge.

Warwick rescue captain Peter Ginaitt, forty-two years old, was a twenty-year veteran of that city's fire department, with more than the usual firefighter's credentials. A graduate of the University of Rhode Island with a degree in resource development and landscape architecture, Ginaitt had earned additional degrees in fire science and nursing from the Community College of Rhode Island. In his spare time, the RN was also a Rhode Island state representative. But none of that could have fully prepared him for what he was about to experience as his Warwick Rescue 4 rig sped the two miles to the Station blaze.

When Ginaitt saw a bright glow in the sky, visible over a mile away, he thought, "This fire is just cranking." Ginaitt figured he'd get "five to six burn victims on this one," but when he got there it was worse than he could have imagined. His rescue vehicle had not made it all the way to the fire when a man flagged down his truck, seeking help for a badly injured woman sitting in his car. Ginaitt's partner, Todd Berthiaume, stayed to bandage the woman while Ginaitt proceeded to the Cowesett Inn, where a crowd of injured had gathered.

Ginaitt and Fire Captain Leo Kennedy of Cranston immediately took over triage there. As they walked through the restaurant, Ginaitt would find "one person with burns so severe that I'd think that was as bad as it could get," he recalled. "Then, I'd find one worse." Ginaitt and Kennedy had only seconds to assess each of the victims and assign them to the color-coded areas (red — critical; yellow — serious; green — mild) that they'd designated within the restaurant. The two men understood, perhaps counterintuitively, that many persons screaming loudest in pain could safely be

transported later than others who lay silent. If victims were screaming, they weren't yet in shock. And if their burns caused excruciating pain, they were likely second-degree, not nerve-destroying third-degree burns.

Ginaitt looked for telltale signs of inhalation injury like singed nasal or facial hair — an injury that could compromise respiration within thirty minutes. Mostly, he reassured each victim, telling them, “I won't forget you.” Many told Ginaitt that others were hurt worse than they — “just don't forget me,” they'd add.

Thirty-four rescue units and twenty-three private ambulances responded to the disaster. The first rescue to pull up at the fire itself was from the Hopkins Hill Fire Department in Coventry, Rhode Island. It was immediately surrounded by about fifty people seeking medical attention, many screaming in pain. As soon as the truck's rear door opened, four victims scrambled inside.

West Warwick dispatchers turned to the Yellow Pages to call private ambulance services, all of which sent crews without charge that night. When rescue vehicles began to jam Cowesett Avenue between The Station and the Cowesett Inn, police wisely diverted all other rigs to a staging area in the parking lot of the Galaxie Restaurant, a block away. Crews were instructed to remain there with their units until summoned to the Cowesett Inn for transport.

Ginaitt and Kennedy not only triaged victims; they triaged first responders. EMTs with intermediate (“cardiac”) or advanced (“paramedic”) certifications were generally allowed to stabilize and transport the most seriously injured. EMT “basics” transported “greens” and “yellows” in groups of two or three per vehicle; others were tasked with searching parked cars and nearby lots for additional victims (they found several). Ginaitt performed yet another triage of his brethren, this one subjective, as soon as they took in the scene at the Cowesett Inn. No “reds” were entrusted to a terrified EMT, regardless of his or her certification.

It didn't hurt that Rhode Island is such a small state. Ginaitt and Kennedy recognized first-rate rescue personnel from previous statewide drills and training. Four RNS from the neighborhood offered their services at the triage center. A rescue captain immediately vouched for their skills. The nurses started IVs and dispensed morphine “like water.” There was definitely room for them at the inn.

The system worked remarkably well. In an hour and a half, crews transported 188 people to hospitals and burn centers around the state and nearby New England. None died at the triage center or during transport. That only four of all those transported died later (days, weeks, or months later) is a testament not only to the superb hospital care they received, but to the remarkable quality of triage and transport from the scene.

The Cowesett Inn served not only as a medical triage center that night, but also as a temporary command and information center for the rescue/recovery effort. Police took over back rooms and offices, designating the restaurant's phone number as an

information hotline. They took witness statements and missing-person information in its rear booths. A temporary Red Cross victims' service center occupied another area. Restaurant owner James Paolucci and his staff kept ice, water, and food flowing for victims and workers throughout the night and into the following day.

One somewhat disquieting feature of the Cowesett Inn was a large TV that loomed over injured victims, caregivers, and even victims' family members who began to gather there. It remained tuned to CNN, which continuously broadcast video from . . . the Station fire. A poignant reminder of our wired world, the programming functioned as a feedback loop for participants in the event, shaping their reactions to the tragedy even as it reported them.

As far as the firefighting was concerned, the first phase, rescue, ended in about forty minutes. The second phase, recovery, lasted from midnight until the following noon. Once it was determined that no further survivors remained in the building, a plan was devised for removal of bodies. The protocol was designed to limit any first responder's total exposure to the horror. It worked imperfectly, at best.

At 11:30 p.m., the West Warwick Police Department called the Rhode Island medical examiner's office to advise that a "Mass Casualty Incident" was under way, so that ME personnel could respond to the scene and prepare to receive a large number of casualties. Investigator Jay Kingston took the call. With bushy blond hair and stocky frame, Kingston, forty-two years old, had not intended to go into the body business as a career. But, like many state employees, he found himself in a succession of positions where on-the-job training was the rule. One of the job skills Jay picked up as an investigator for the ME's office was a healthy skepticism. His first reaction was to call the Rhode Island State Police to confirm that the "mass casualty" report was not a prank. If only.

His next call was to Rhode Island's chief state medical examiner, Dr. Elizabeth Laposata. Unlike television coroners, Laposata had an unusual practice: she refused to visit crime or accident scenes. So, despite no fewer than five telephone calls that night from her investigator, from West Warwick police chief Peter Brousseau, and from Rhode Island Emergency Management Agency executive director Albert Scappaticci, Dr. Laposata never once appeared on the scene. (Interviewed later, Laposata said she did not recall any calls from Brousseau and Scappaticci.)

Instead, only one investigator from the ME's office, Jay Kingston, responded, accompanied by two hearses and drivers from Ocean State Transfer, the private service normally contracted by the state to assist in body removals. Kingston's understanding was that twenty to thirty individuals had lost their lives. He intended to carefully record the location of each body within the building, segregate personal effects found with each, and accurately document chain of custody for all possible evidence being moved from the crime scene; however, it soon became apparent that

the elements, and sheer scale of carnage, would thwart that. On the third body tag, his Sharpie marker froze in the bitter cold. It was downhill from there. Kingston worked without relief or ME supervision for seventeen straight hours, struggling with multiple simultaneous recoveries, cold-stiffened body bags, frozen bag zippers, insufficient body bags, plastic gloves unsuitable for subfreezing use, and multiple frozen cameras. A policeman was pressed into service to record the location of bodies. Transportation of the dead was improvised using the two hearses, four ambulances with volunteer crews, vans from the West Warwick Department of Public Works, and a police bus. Drivers of most of these vehicles were untrained in body transport and, to put it mildly, unaccustomed to such distressing circumstances.

Kingston was not joined by an additional investigator until 1 p.m. the following day, and then only to drop off more body bags. As a result, efforts to accurately document the locations of particular bodies within the club were impaired, and victims' personal effects commingled.

When Kingston first arrived at the club location, he was directed by firefighters to a makeshift morgue area that had been set up to the right side of the club in the parking lot. There, seven victims were laid out under a tarpaulin. When Kingston lifted the tarp, he was sure that the first body was that of a close friend. This was, after all, Rhode Island. Firefighters looked on in puzzlement as the investigator rolled up the man's pants legs. Neither calf bore his friend's distinctive tattoos.

A flood of relief washed over Kingston — but was soon displaced by horror as he turned to the front entranceway of the club. In that small space, according to Kingston, bodies were intertwined “at least five deep.” Firefighters were using ropes and rescue belts to separate the corpses, many of which were fused to the floor or to each other by the heat. Skin slippage made their handling extremely difficult, requiring that many bodies be removed from the building on backboards before they could be bagged. After each extrication, the firefighters paused while a chaplain spoke a short prayer. Removal of thirty-one victims from the front hallway proceeded in this manner.

Just past the ticket desk, another nine bodies were recovered; within the east end of the atrium, nineteen. The dart room, kitchen, and storage room yielded twenty more. Efforts continued throughout the following morning. After ninety-five bodies had been removed, firefighters thought they had found them all. However, hours later, when a roof section was lifted from the office area using heavy machinery, a ninety-sixth victim was discovered.

Consistent with preferred protocol for mass casualties, it was intended that no firefighter would have to remove more than one body. Based on an assumption that there were probably thirty victims inside, teams of four firefighters were queued up and sent into the collapsed wreckage to remove a single victim, then proceeded to a “rehab” area (to assess their physical and emotional status) immediately thereafter.

However, the process of separating the charred corpses was more exhausting and time-consuming than anticipated. The number of victims grew with each passing hour. Bodies often proved difficult to load intact into body bags. Masks with “odor distraction,” worn by all, were insufficient to block the smell of burned flesh. After debriefing by Critical Incident Stress Management personnel, extraction teams were sent back into the wreckage multiple times — some, as many as five.

And so the process continued — locate, extract, bag, pray, debrief — ninety-six times, until the dreadful task was complete. The only responder to participate in every single recovery was ME investigator Kingston. No one thought to check on *his* mental status.

Not everyone on-site had been quick to appreciate the gravity of the situation. Seventeen hours earlier, as flames shot into the night sky above The Station, and terrified screams rent the air, the DelSesto twins, Cara and Lisa, stood in the club’s parking lot. They had exited unharmed with the first wave of survivors, along with Michael Kaczmarczyk of the band Human Clay. Cara spied Jack Russell, Great White’s lead singer, and called to him, “Jack, what the hell happened?” Russell replied that the band “had permission” to use the pyro. “If anyone died, I don’t know what I’ll do,” lamented the rocker, who proceeded to bum a cigarette from Cara. She began to cry. Russell responded with a hug.

Cara’s sister, Lisa, attempted small talk. “I’ve never seen Great White before. It’s too bad this happened.”

Russell replied, “Well, we’ll be on tour this summer.”

CHAPTER 19

SOLID GASOLINE

IN 1970, THREE NIGHTCLUB OWNERS in Saint-Laurent-du-Pont, France, thought it would be a great idea to line their club's walls and ceiling with spray-on polyurethane foam, sculpting it to resemble a grotto. The "Club Cinq-Sept" burned furiously after a dropped match ignited a chair, then the foam, killing 146 people (including two of the club's owners) in less than five minutes. It didn't help that the owners had installed one-way turnstiles at the entrance and padlocked three emergency exits to keep out gate crashers. But what sealed the crowd's fate was the rain of molten, flaming polyurethane foam that set tables, chairs, and patrons on fire within seconds.

Three years later, designers at the Samuel Goldwyn Studios in West Hollywood, California, used polyurethane foam to build a set for Sid and Marty Krofft's low-budget children's TV show *Sigmund and the Sea Monsters*. (It made the pair's previous paean to pot-inspired kids' fantasy, *H. R. Pufnstuf*, look like *Gone with the Wind*.) Apparently the '70s substance of choice for faux grottos, the foam was originally intended as insulation for industrial buildings. When it burned, causing \$3 million in property damage in a few minutes, the flame front expanded with such speed that the fire's gases pushed out one of the exterior walls of the building.

Then, in 1986, when the Dupont Plaza Hotel in San Juan, Puerto Rico, burned, killing ninety-seven persons, it was discovered that a significant contributor to the fire's lethality had been a plastic foam "air wall" used to divide a ballroom. The polystyrene foam in the divider was intended for use as insulation on the outside of buildings.

You would think that the manufacturers of plastic foam products would thereafter take pains to warn the public that flammable foam should never be used in any building application where it might be exposed to heat or flame — much less in a public gathering place. You would be wrong.

Polyurethane was the brainchild of Otto Bayer, a German chemist. In 1937, he patented the basic process that combines a chemical called a "polyol" with an "isocyanate," creating a versatile plastic substance. In later years, scientists figured out how to introduce tiny bubbles into the product, and polyurethane (PU) foam was born. Today, in its open-celled flexible form, it gently cushions our bedding, our furniture, our cars, and our airplanes. This lightweight and wonderfully spongy

material is used in everything from packing crates to bras. Over *two billion pounds* of the featherweight stuff enters the U.S. market every year. It is all around us, comforting our sleep and softening the blows of everyday life. And if it catches fire, it burns like holy hell.

This last fact has long been known throughout the foam plastics industry. Over the years, foam manufacturers have been acutely aware of precautions necessary for safe storage and handling of the material. By contrast, the history of the industry's educating *consumers* about foam's fatal propensities is a study in economic calculation and, at times, outright deception. It is the story of an industry that has encouraged ever-expanding use of its products while resisting safety regulations or public education that might slow market growth.

In order to understand how knowledge of foam plastic's fire danger was suppressed over the years, it is necessary to go back to the worst nightclub fire in U.S. history — the Cocoanut Grove fire in 1942. In the aftermath of that tragedy, which was caused by fire racing across flammable ceiling-hung fabric decorations, A. J. Steiner of Underwriters Laboratories developed a test to determine the “surface burning characteristics” or “flame spread” rating for building materials. His test, which came to be called the “Steiner tunnel test,” involved a twenty-four-foot-long burning chamber in which the tested material was suspended horizontally (as on a ceiling) and ignited at one end by a gas flame. The rate of flame spread along the material's surface was compared with that of known benchmark materials, and a numerical rating was issued. For example, asbestos/concrete board had a rating of zero; red oak, 100. If something had twice the flame spread rate of red oak, it would get a 200 rating; if one-quarter that of red oak, 25. By the 1960s, most state building codes classified building materials with a flame spread rate of 25 as “noncombustible.”

When A. J. Steiner conceived of his test method, polyurethane foam had not yet been invented. If polyurethane foam is subjected to the Steiner tunnel test, however, a curious thing happens. The foam melts as it burns, dripping off the horizontally oriented test sample to form blazing puddles below and removing the flame front from the test sample, slowing or stopping its horizontal progress. As a result, PU foam's measured “flame spread rating” under the Steiner test is very low — about a quarter that of red oak. Orient the foam vertically, as on the walls of the Station nightclub, and the result is very different. Fire races upward, consuming the foam in seconds, as flaming liquid cascades downward, burning everything in its path.

Up until 1974, manufacturers of PU foam marketed their product for building applications as “non-burning,” “self-extinguishing,” and “25 flame spread,” based in part upon its performance in the horizontally oriented 1945 Steiner tunnel test. Why the industry finally stopped this deception illustrates how the civil justice system works to inform a regulatory process that is susceptible to inertia and the pressures of special interests. The history leading up to the foam industry's agreeing with the

Federal Trade Commission (FTC) to cease use of the misleading descriptors shows how a vigorous state tort law system helps to shape the behavior of those who would ignore safety for the sake of profits.

The 1960s saw a number of fires in underground mines, warehouses, and other industrial structures in which plastic foam played a role. But it took a tragic home fire to awaken regulatory authorities. When fire raced through the Clark County, Missouri, home of Jerry and Minnie Childress on March 10, 1969, it was exposed polyurethane foam that fed the blaze. The couple's eight-year-old daughter, Kelly, and four-year-old son, Jerry, were killed in the inferno.

The Childresses filed a product liability lawsuit against the manufacturer of the foam, who, based upon the Steiner tunnel test and a smaller, analogous bench test, had labeled the product "non-burning" and "self-extinguishing." A jury awarded the parents \$50,000 for the death of each child and \$30,000 for the destruction of their property. The foam manufacturer appealed, huffing that the jury's verdict was obviously the result of "unreasoned passion." The appeals court, however, saw it somewhat differently: "The evidence conclusively established the unconscionable irresponsibility of defendant in marketing for home use an explosively flammable product as 'non-burning' and 'self-extinguishing' on the basis of a test, not explained to the buyers, that was so patently inept and inadequate that any layman would be bound to regard it as better calculated to conceal than reveal the deadly properties of the substance."

The opinion of the circuit judge in the Childress appeal came to the attention of the Federal Trade Commission, the federal government agency charged with investigating deceptive and misleading trade practices. Particularly interested in the use of the terms "non-burning" and "self-extinguishing," the FTC undertook an investigation of the foam plastics industry nationwide. The findings from that investigation illustrate why some industries are constitutionally incapable of self-regulation.

The FTC found that since the 1950s, the Society of the Plastics Industry Inc. (SPI), a plastics industry trade group, had worked with its constituent members to develop test methods for determining the flammability of its products. In 1959, it promulgated a flammability test standard called ASTM D-1692, a small-scale laboratory screening procedure that allowed foam plastics to be classified as "non-burning" or "self-extinguishing." As in the Steiner tunnel test, ASTM D-1692 utilized a *horizontally oriented* specimen. From the mid-1960s through 1974, foam manufacturers encouraged and fostered increasing use of their products by relying on the Steiner tunnel test and ASTM D-1692 to call their products "noncombustible," "non-burning," "self-extinguishing," and "25 flame spread."

The FTC's investigation found that the Steiner tunnel test and the ASTM D-1692 test were neither reliable nor accurate tests of plastic products "under actual fire conditions." It determined that, contrary to the marketing language used by foam

manufacturers, the products actually had *more* rapid flame spread, *faster* heat production, and *greater* smoke and toxic/flammable gas emission than conventional building materials; also, that some foams “tend to melt or drip in the presence of fire, which can contribute materially to the spread of a blaze.” The FTC’s complaint alleged that these facts were known, or should have been known, to the foam plastics industry. It concluded that the industry’s use of the terms “non-burning,” “self-extinguishing,” and “25 flame spread” were “unfair, false, misleading and deceptive” and that the industry had engaged in “unconscionable acts . . . contrary to public policy.”

This is not to say that people seriously interested in testing foam products for fire safety cannot successfully do so. The United States Navy uses plastic foams to sound-insulate its submarines. (Drop a wrench aboard a sub and it can be heard for miles underwater.) Accordingly, the navy funds rigorous tests of foam’s fire performance *under actual fire conditions* because, as noted by one fire expert, Joseph Zicherman, “there’s probably nowhere in the world you want a fire less than a submarine.”

As a result of the FTC’s investigation, the plastics industry agreed in 1974 to cease using the deceptive terminology and to warn purchasers and users of foam plastics concerning possible fire hazards. In a consent order negotiated by the industry with the FTC, the foam manufacturers agreed to warn previous and potential purchasers that the earlier deceptive “numerical flame-spread rating” was “not intended to reflect hazards presented by this or any other material under actual fire conditions” (the only conditions that matter), and that under those conditions, foam may “produce rapid flame spread, quick flashover, toxic or flammable gases, dense smoke and intense and immediate heat.”

Right after the consent agreement was entered, the FTC published a proposed trade regulation prescribing new affirmative warnings for foam building products (which, in the case of foam sold to “nonprofessional users” like the Derderians, would have to appear on the products themselves). However, the FTC soon abandoned that proposal, noting that the threat of tort liability had “already changed behaviors in the plastics industry,” according to the agency’s then-lead investigating attorney, Eric Rubin. Therefore, as to specific new warnings on foam products sold in the future, the industry would be left to the oversight of the nascent and underfunded Consumer Products Safety Commission or, more likely, to its own devices.

Whatever those devices may have been, by the year 2000, when the Derderians bought their corrugated PU foam from the American Foam Corporation, word of its fire dangers had apparently not penetrated the consciousness of the local fabricator (American Foam Corporation — which called it “sound foam” on its invoice) or the end users (the Derderians). While the manufacturer of the bulk foam that was sold to American Foam for cutting into corrugated sheets may have warned that *fabricator* that the foam was flammable, it apparently made no effort to warn potential *end users*

of fabricated products (in the case of The Station, corrugated sheets) that non-fire-retardant PU foam was not a building material and should not be used anywhere it might be exposed to sparks or flame. And while PU foams containing a fire-retardant additive were available at a higher price, American Foam sold, and the Derderians bought, the cheapest, highly flammable stuff.

Less than a year after gluing the bargain PU foam to The Station's walls, Jeff Derderian filmed his television report for WHDH in Boston about the fire hazards of polyurethane foam-filled mattresses. Even as he referred to the mattress filling as "solid gasoline," Derderian apparently failed to connect the dots.

The question of whether fire-retardant PU foam would have made a difference to victims of the Station fire was put to the test by the National Institute of Standards and Testing after the tragedy. That federal agency fired sparks diagonally from 15 × 15 pyrotechnic gerbs at sheets of fire-retardant and nonfire-retardant corrugated PU foam. As expected, the fire-retardant foam was unharmed. The non-fire-retardant foam — the kind that the Derderians put up on the club's walls — burst into flames just as seen in the Butler video. The two foams are visually indistinguishable. Without clear warnings, the general public, including the Derderians, could never tell the two apart.

Foam's propensity to burn furiously is also the feature that makes it difficult to prove a given manufacturer's responsibility for a fire. The substance burns so intensely and completely that there is often none of it left at the fire scene upon which to base product identification. In short, you can't sue a foam manufacturer, no matter how inadequate its product warnings, if you can't prove it manufactured the particular foam involved in the fire. Unless some foam is available for analysis, the fairly generic product may be indistinguishable from foam of anyone else's manufacture. Victims of the Station fire would have to meet this legal burden, among many others, if they were to hold any foam manufacturer responsible.

The ashes of The Station were not yet cool when fire investigators began searching for any remnants of the sound foam that had been used by the Derderians to line the club's walls. All but the smallest scraps had been completely consumed in the blaze. Luckily for investigators, however, the brothers were not the most fastidious of housekeepers. In the building's basement, under tons of rubble, lay several waterlogged rolls of unused gray corrugated polyurethane foam sheets — the balance of American Foam's shipment from three years earlier.

CHAPTER 20

THE MISSING

Be absolutely certain of the identity of the deceased. . . .

All notifications should be made in person. . . .

More than one person should be present to make the notification.

DO NOT NOTIFY CHILDREN, LEAVE NOTES, OR TELL NEIGHBORS. . . .

Do not use ambiguous terms such as “we have lost John Smith” or “he has expired.” . . .

Use terms such as “killed,” “died,” and “dead,” as these leave no questions.

— from the “Protocol for Death Notification” furnished to Station Fire Family Assistance Center personnel

SIGHTS AND SOUNDS OF THE STATION FIRE were broadcast locally, nationwide, and worldwide within forty-five minutes of its outbreak, thanks to a film-sharing arrangement between WPRI-TV Channel 12 and other networks. This caused family and friends of Station patrons to flock to the site when calls to their loved ones’ cell phones went unanswered. The first arrivals stood by at the Cowesett Inn while the injured were triaged. Other families quickly filled the waiting rooms of area hospitals, praying that their sons, daughters, husbands, or wives had been transported, alive. Many returned to the remains of The Station the next morning, hoping they would not find a familiar car still parked in the club’s lot.

At daybreak, 211 Cowesett Avenue looked like a battlefield. Blood-stained snowbanks ringed the club’s still-smoldering remains. Burned clothing and first-aid detritus littered the parking lot. Firefighters went about their grim business of extracting bodies from the rubble, proceeding at a somber, measured pace. Television uplink trucks soon surrounded the site; before long, reporters outnumbered firemen. The media circus had come to town, and would not strike its tent for weeks to come.

In any disaster, the first step in identifying the dead and injured is learning just who is missing. Then, bodies or hospital patients can potentially be matched to absentees. To this end, police recorded the make, model, and registration of every car in The Station’s parking lot, to be run against DMV records so that registered owners could be ascertained. That would provide at least a starting point for identifying the missing.

The parking lot registration list was as close to a roster of attendees as the Station fire would yield. But it was woefully incomplete. Additional names would have to come from families, or from persons who had escaped the blaze. Families needed no

roster, however, to appreciate the binary possibilities for their missing loved ones presented by a car still in the lot that morning: its driver had to be either dead or burned beyond easy identification.

Identifying victims of a tragedy is much more difficult when biological remains are completely lost, as occurred with hundreds of 9/11 victims. Fortunately, *something* remained of every Station victim's body. (You know the little name/address slips that passengers are asked to complete immediately before boarding transoceanic flights? Ever wonder why you don't fill one out when flying over land? The answer has to do with proving who was actually on a plane when remains are lost forever.)

Donna Miele, Michael Hoogasian's sister, stood in the Cowesett Inn parking lot, trembling in the morning chill. She could not find her brother or his wife, Sandy. Sandy's car was still parked across the street at The Station — a bad sign. Still, Donna would not give up hope. "Maybe he's unconscious somewhere," she told a reporter.

But Miele's hopes were dashed two days later. Her brother's body was among the first nineteen identified. Sandy's took another day to identify. Mike and Sandy — who met Jack Russell at the Doors of Perception studio while Mike received a "flames" tattoo — were two of one hundred Great White fans who would never listen to music again. Their families would always remember where they were when they received the awful news.

For most, it was the Crowne Plaza Hotel in nearby Warwick. At 5 o'clock on the morning after the fire, the American Red Cross and the Rhode Island Emergency Management Agency began operating a Family Assistance Center at the Crowne Plaza. The hotel became at once a maelstrom of hope, worry, grieving, and, for some, rejoicing. It was where families went to find their missing.

The scene at the Crowne Plaza was, for the most part, organized and somber. Families gathered around tables in function rooms, each one equipped with a telephone and a box of tissues. Others sat on the floor in hallways, huddled in quiet circles. Still others repaired to bathrooms to smoke or cry. But the real business of learning victims' fates took place in the hotel's grand ballroom. There, an assembly line of graduated despair performed its work with relentless efficiency.

At the first table encountered by families, Red Cross volunteers searched thick binders containing the names of known injured who had been admitted to nine area hospitals. Those fortunate families whose trip along the assembly line ended with that table would scurry out, hastening to their loved one's bedside.

Families without a match at the first table proceeded to a second, where West Warwick and state police officers helped them complete missing-person reports. Family members then met with forensic specialists in side rooms, where they shared details of the missing person's height, weight, hair color, and any unique identifying features. Tattoos and distinctive clothing or jewelry would prove important to the

process. Names of family dentists were obtained so that X-rays could be requested. (Early on, Rhode Island's governor, Donald Carcieri, made a public request that every dentist in the state please check his or her messages, so that records requests could be expeditiously filled. Volunteer health department drivers fanned out across the state to pick up dental records and bring them to the morgue.)

Then, most families just waited at the Crowne Plaza. At first, when officials received new information on a victim, they would call out his or her last name in the ballroom, upsetting loved ones and disappointing all others. Eventually, that "deli counter" approach was replaced by one in which a single family representative would be given a sticker to wear on his or her chest with the name of the missing relative. When news, good or bad, arrived, an official would walk through the crowd, scanning tags, until the right family could be discreetly located.

In order to keep reporters from accosting families at the Crowne Plaza, the Rhode Island State Police and West Warwick police closed the main door of the ballroom and allowed access to families only through a side door. Nevertheless, some enterprising out-of-state journalists rented guest rooms at the hotel and attempted to enter the Family Assistance Center under false pretenses. They were detained by police, then evicted from the hotel.

Jason Kinan and his family waited in the Crowne Plaza ballroom for any news of their brother, Joe. Joe was briefly visible on Brian Butler's videotape wheeling toward the front doors with his friend Karla Bagtaz in tow. The Kinan family had struck out with the list of injured at the first table, filed their missing-person report at the police table, then furnished forensic information to the mortuary team. Jason was designated to wear the red name tag reading "Joseph Kinan."

Hours later, a Red Cross volunteer spotted Jason's tag in the crowd. A patient at Massachusetts General Hospital had been identified as Joseph Kinan. Buoyed by the news, the Kinans immediately left for Boston, one of the very few tag-bearing families to leave the hotel with good news. Their relief would soon be greatly tempered, however, when the family arrived at Mass. General and learned Joe's condition.

Volunteers and professionals at the Family Assistance Center rose to the unprecedented challenge of their task. The Crowne Plaza Hotel provided food, drink, and waiters for several days. In all, the hotel served 7,500 meals and absorbed costs of \$168,000. Thousands of flowers were donated by the Rhode Island Spring Flower and Garden Show, which ran that weekend. Volunteers from the Pet Assisted Therapy Association, joined by their furry empathy counselors, circulated among the families, dispensing hugs and canine kisses to children who anxiously awaited word of a missing mother or father. Even the dogs sensed serious business afoot.

At various times in the first post-fire days, Governor Carcieri addressed the crowd assembled in the grand ballroom. He had presided over countless rubber-chicken fests

in this same room, but never before so tough an audience. The governor's remarks were received with hushed silence — until he updated the death toll. Then the families' composure dissolved in wracking sobs.

The harrowing wait for names of the dead affected Rhode Islanders well beyond the confines of the Crowne Plaza ballroom. One newspaper reporter, Meaghan Wims, put it succinctly: "In this quirky, close-knit state of roughly a million people, it's only a matter of time before most find out that they do, indeed, 'know someone.' Or, they'll know someone who knows someone." Rhode Island attorney general Patrick Lynch summed up his state's insularity when interviewed on NBC's *Today* show in the fire's aftermath: "They say there are six degrees of separation in this world. In Rhode Island, there's a degree and a half." Not nearly enough to insulate from heartbreak.

National news organizations sometimes overlooked the state's collective fragility. For over a week after the fire, CNN aired pieces by its reporter, Whitney Casey, "from on-scene in West Warwick, Rhode Island." Producers in Atlanta kept using a horrific screen-shot of the front-door pileup at The Station as a backdrop for her reports, even as funerals began taking place in Rhode Island. When Casey realized what was happening, she immediately put a stop to it.

Even though The Station had been designated a crime scene, officials compassionately accommodated many families' strong desire to visit the ground last touched by their loved ones. Three days after the fire, eleven buses, loaded with victims' families and friends, made a grim pilgrimage from the Family Assistance Center to the Station site under police escort. The buses disgorged their passengers, then ringed the site, shielding grieving families from press and onlookers. It was too much for some. At least one family member was overcome and transported to a hospital by ambulance.

Many relatives simply could not wait passively for news, once they'd completed a missing-person report at the Crowne Plaza. Reminiscent of World Trade Center families, they went from hospital to hospital carrying pictures of their loved ones, hoping against hope to find a match among the dwindling number of yet-unidentified injured.

Dina DeMaio was tending the main horseshoe bar of The Station in Brian Butler's video, smiling her thirtieth birthday smile, when fire broke out. Now her mother, Patricia Belanger, stood near the emergency entrance to Rhode Island Hospital in Providence, clutching Dina's picture and showing it to anyone who might have seen her. Approaching a reporter, she sobbed, "This is my daughter. It was her birthday yesterday. . . . Can you put her face on television?"

Rhode Island Hospital, which had admitted forty Station fire victims, still had one patient who remained unidentified. It was not Dina DiMaio. Belanger drove to Massachusetts General Hospital in Boston. Then to Brigham and Women's Hospital in that same city. Dina was at neither. Days later, her death would finally be

confirmed.

The process was repeated by other families, usually with the same result. Gina Mattera carried two photos of her sister, Tammy, from hospital to hospital, checking lists of admissions. She showed the photos to the crowds gathered near the Station site. But no one had seen Tammy after she became separated from her friend, Erin, in the crush at the club's front door. Tammy's husband and two children would receive the worst possible news a few days later.

News of others was no better. Tina Ayer, the Fairfield Inn housekeeper on Jack Russell's guest list; Steve and Keith Mancini of Fathead; Andrea Mancini, last seen at her ticket desk; Mike "Dr. Metal" Gonsalves; Karla Bagtaz — the list of the dead grew and grew.

Sometimes persistence appeared to pay off. David Penny raced to Kent County Hospital after hearing that his best friend, Kevin Anderson, was in the hospital's intensive-care unit. But when he arrived there, no one could find Anderson. Hopes dashed, Penny was about to leave, when an ICU nurse did some further checking on her own. It turned out that Anderson had been at the hospital, but was immediately airlifted to a burn center. Penny's relief was palpable — but short-lived. His buddy died shortly thereafter at the other facility.

Hospitals faced difficult decisions when family members sought to visit seriously burned patients. Intubated, sedated patients could not identify themselves, and family members might not recognize them. The very last thing that doctors wanted was to have the wrong family at a victim's bedside. "It would be extremely traumatic to take a patient that we had not identified and send a person in if it was not immediately apparent: 'Is that my son or daughter, or is it not?'" explained Alasdair K. T. Conn, MD, chief of emergency medicine at Massachusetts General Hospital. And so, until identifications were absolutely positive, families were kept at bay, adding further to their frustration.

Hospitals did their utmost to care for families, as well as patients. The waiting area of Rhode Island Hospital's intensive care unit teemed with concerned family members who had set up a virtual encampment there. Doctors and nurses consulted with loved ones. Clergy comforted anyone willing to speak with them. The hospital did all it could, even in small ways, to comfort the afflicted. Free meals were provided to families in the hospital's cafeteria. Parking was free to all who were "with the burn victims." At daily meetings, Dr. William Cioffi, Rhode Island Hospital's chief of surgery and a former army burn surgeon, briefed family members, two hundred at a time, in the hospital's auditorium.

Given the confusion and highly emotion-charged atmosphere of the Family Assistance Center it is, perhaps, surprising that there was only one instance of erroneous family notification in the wake of the tragedy. A family was told that two of its members were hospitalized, only to learn thereafter that they were among the

missing. Tragically, they were later identified as deceased.

Identification of the dead was the ultimate responsibility of the state medical examiner, Dr. Elizabeth Laposata. While her complete absence from the fire scene undoubtedly impaired the marshaling of sufficient assets during the body recovery phase, the ME's work in the days following was exemplary, especially given the staffing limitations of her department.

With assistance from a federal Disaster Mortuary Operational Response Team (DMORT), the Rhode Island Funeral Directors Association, and the Rhode Island Dental Association, autopsies were conducted by eight teams consisting of pathologists, funeral directors, and dentists. They worked in twelve-hour shifts, transferring bodies from refrigerated trailers at the ME's office to the morgue, where directed autopsies and toxicology tests were conducted. With an average of thirty-five persons working around the clock, the autopsies of all ninety-six deceased victims removed from the scene were completed in only four days, with all identifications complete in just one more day. The successful use of dental and fingerprint records precluded the need for any DNA testing, further speeding the process.

In one unanticipated way, the demographics of Station fire victims played a role in their prompt identification. The popularity of tattoos among heavy-metal fans resulted in a dermatological ID card for many of the victims. As explained by Dr. Laposata, "When we identify people with tattoos, it doesn't mean they weren't severely burned, because the tattoo goes into the dermis. . . . The needles put the pigment deep, so you can even be charred and we can push off that top layer and the tattoo will be just pristine in the dermis." Over one-third of the bodies from The Station were identified with the aid of distinctive tattoos. They included thirteen women.

As significant as what was *on* many bodies was what was *in* them. Toxicology studies revealed that twenty of the ninety-six dead at the scene had significant levels of cyanide in their bodies, a result of inhaling smoke from burning polyurethane foam. (As a general matter, the cyanide-poisoned victims were found near the stage, not near the front doors.)

One young victim's identification was easier, and more poignant, than all the others. On his body was found a cell phone, with functioning speed-dial.

It called his mother.

CHAPTER 21

ARTIFACTS OF TRAGEDY

SEVEN DAYS AFTER THE FIRE, an unlikely collection of volunteers — young and old, male and female — began putting in daily shifts at the frigid Station site. They brought with them buckets, shovels, and quarter-inch mesh sieves. Clad in Tyvek suits, surgical masks, goggles, and gloves, they divided the footprint of the club into five sections, then dug, filled buckets, sifted, and cataloged everything they found. And, following strict protocol, they spoke to no one among the curious onlookers.

Newspaper and web accounts speculated about who these people were and what they were doing. “They look just like archaeologists,” mused one blogger.

He guessed right.

Forensic archaeology is a relatively young discipline — an outgrowth of the science that, more traditionally, unearths artifacts to learn about historical events or ancient civilizations. Forensic, or “disaster” archaeology, however, applies the techniques and disciplines of archaeology to recent tragic events, serving more practical objectives — usually, victim identification and repatriation of their personal effects. Additionally, the fruits of forensic archaeology may become evidence in criminal or civil proceedings.

At its best, forensic archaeology harnesses objective scientific techniques to serve very subjective, emotional needs: the yearning of families for accurate word of their loved ones’ fates, and for some tangible memento of the departed. The term “closure” is much abused; however, it fairly describes the humanitarian service that forensic archaeology can sometimes render.

One of the progenitors of forensic archaeology, Dr. Richard A. Gould, was a professor at Brown University in nearby Providence at the time of the Station fire. His interest in disaster archaeology had been piqued eighteen months earlier by another tragedy — the collapse of the World Trade Center towers on September 11, 2001. Professor Gould’s reaction to the horrors of 9/11 gave birth to the forensic archeology team that would later put in yeoman’s work at the Station site.

If Sean Connery had been unavailable to play Indiana Jones’s archaeologist father in *The Last Crusade*, Dr. Gould could have stood in pretty well. With his bearded face, weathered skin, and hands roughened from countless digs and wreck dives, Gould fits the image of an emeritus college professor more at home chipping relics

from earthen mounds than holed up in a library. His post-9/11 experience was the genesis of “Forensic Archaeology Recovery.”

Three weeks after the fall of the twin towers in September 2001, cleanup efforts were well under way in lower Manhattan. New York’s mayor had given the order to clean up avenues, side streets, and rooftops as quickly as possible to allow residents to return to their apartments, and businesses to reopen. While few victims’ remains had been identified at that point, the hurried cleanup proceeded apace.

It was upon this scene that Richard Gould walked on October 5, 2001, from Ground Zero toward Wall Street. His archaeologist’s eye for detail immediately picked up several small fragments of bone amid the ashy dust covering the street. He did not bend to pick up any, lest he call attention to them. One larger piece, several inches across, appeared to be part of a human scapula. Gould became convinced that much of lower Manhattan had been blanketed with fragmented human remains, and that the massive cleanup activities under way were removing these remains along with other debris.

Perhaps this commingling and loss of “biologicals” was inevitable, given the sheer size of the potential debris field and the imperative for returning the city to function. However, Gould believed that archaeological techniques could be used, at least on a limited basis, to assist in identifying and repatriating victims’ remains and personal effects. With official permission, Gould returned to Manhattan on April 1, 2002, accompanied by a volunteer team consisting largely of Brown University and Brooklyn College graduate students, to attempt a trial excavation at a small site on Barclay Street, next to the WTC. They called their group Forensic Archaeology Recovery, or FAR. Its mission was “to provide trained volunteer assistance to local authorities at mass-fatality disaster scenes to locate, record and recover human remains, personal effects and other evidence, primarily for victim identification.” Little did they know that FAR would be pressed into service again so soon, and so close to home.

The results of FAR’s Manhattan excavation, like its artifacts, were mixed. It was too late after the event to determine with certainty the order of objects’ deposition. Of the ten pieces of bone found, none was even tentatively identified as human. What the experiment did demonstrate, however, was that a team of volunteer archaeologists, using established scientific protocols, could prepare for and perform controlled forensic recoveries at a disaster scene. They just needed to be called in sooner.

While his team’s work at Barclay Street failed to prove Gould’s suspicion of widespread human remains in the aftermath of 9/11, fragmented remains were still being found months and even years later, often in quantity, at construction sites and on rooftops in lower Manhattan. Indeed, when the victim identification process officially ended on February 5, 2005, 1,162 victims, or 42 percent of the missing, remained unidentified.

Less than a year after FAR's trial excavation at the WTC, Richard Gould walked the site of the Station fire with State Fire Marshal Irving "Jesse" Owens. Only six days had passed since the tragedy, and already the site had been disturbed by rescuers, fire inspectors, and federal ATF agents. All ninety-six victims who died at the scene had been identified by the medical examiner. But Owens still had important work for FAR to do, if the team was up to it.

Owens took the Station tragedy very personally, and his overwhelming objective was to spare victims' families further pain. His official charge to FAR was to gather personal items for repatriation to families. His unofficial, but no less imperative, concern was that the site be absolutely stripped of all biologicals and items of interest to souvenir hunters, once the area was no longer secured. Owens was adamant that charred memorabilia from the Station not appear on eBay or be otherwise exploited. Gould's FAR team accomplished these objectives, and more.

During their tour of the fire site on February 26, Fire Marshal Owens pointed out to Professor Gould the main entranceway of the club, its atrium, stage, and bar areas. He described the general locations of the greatest number of bodies, in the hope that there might be some correlation between them and the physical location of items recovered by FAR.

The work would not be easy. Two particular challenges to this "dig" were the absence of any true soil and the punishingly cold weather. Recovered items were encased in a lumpy mixture of ash, charcoal, pulverized building materials, and melted roofing or ceiling materials. Temperatures had not gone above freezing since the fire; therefore, artifacts had to be chipped out in frozen lumps. Fieldwork in archaeology is normally not conducted in midwinter; however, FAR's work did not have this luxury. Disasters can occur any time of year.

The FAR team arrived on the morning of February 27 equipped with shovels, buckets, three rocker sieves, and one hanging sieve, each with quarter-inch mesh. They divided the site into five search areas and strung two "baselines" perpendicular to each other across the foundation. The location of any artifact could be established by its distance from each of the two baselines. Rather than separate the area into permanent grids, as in a more traditional archaeological excavation, a portable PVC-pipe square, three feet by three feet, was used to delineate each area from which buckets of fill were removed and screened. The team had originally intended to wet-sieve the fill, for which West Warwick Fire Department offered the services of a pumper truck; however, subfreezing conditions ruled out that normally more expeditious technique.

All artifacts, biological and otherwise, were bagged and entered as evidence in a State Police Crime Scene Laboratory van that remained on-site the entire time FAR worked there. In this way, chain-of-custody was maintained for all items removed.

On any given day, an average of nine to thirteen volunteers worked the

archaeological site. The FAR team consisted primarily of Brown University archaeology students with field experience. One had specialized training in forensic anthropology (the study of human bones for legal identification), a skill that would prove useful in identifying human remains. Joining the Brown students were three volunteers from the Providence Police Department's Bureau of Criminal Identification. The Salvation Army and Red Cross provided food and shelter for FAR workers on breaks, while the state police provided site security.

The FAR team worked in a proverbial fishbowl, but in total anonymity. No one spoke to the press. Viewers, including bandaged survivors and grieving families, watched the process through the surrounding chain-link fence, sometimes for entire days. Because of this constant observation, FAR's protocol forbade any raised voices, or even cell phone calls, from the work area. Anything that might draw attention to finds such as human remains was forbidden. The workers' professional demeanor remained unbroken throughout their engagement at The Station.

Professor Gould's concern that firefighting, rescue, and investigative activities might have moved artifacts from their original resting places was allayed in part by an "embedding" phenomenon that resulted from a combination of melted roof materials and freezing temperatures. In several areas of the club, biological specimens and personal items lay within a sandwich of building materials, unmoved from their initial place of repose. Like that archaeological staple, the fly in amber, cell phones and jewelry remained frozen in time and place at The Station, until chipped out by FAR volunteers and screened from their surrounding matrix.

When an object is believed to lie where it was initially discarded or came to rest, archaeologists speak of its having a "primary association" with a location. There is a principle in archaeology that smaller objects tend to resist movement in deposits subject to disturbance. By contrast, larger items tend to be more mobile. Thus, between the size and embedment phenomena, smaller personal items like jewelry and buttons remained close to where they had been deposited during the Station fire — a "primary association," according to the archaeologists.

Not surprisingly, the areas of the club where most bodies were found were the same areas in which fragmented remains and personal items were most heavily concentrated: a mid-forearm-length black glove, with bone fragments within; a web belt with white-metal buckle; a partially burned baseball cap with the logo "Baltimore Pile Driving." Health club membership cards and supermarket loyalty cards (readily associated with their owners from scannable bar codes) were common finds. In a corner of the atrium, where fire temperatures had exceeded 1,800 degrees Fahrenheit, were found cranial fragments (most likely the result of explosion in the intense heat); elsewhere, a piece of scalp with hair. Jewelry, watch parts, cell phones, eyeglass frames — all remained more or less where they had fallen, preserved in the amber of melted roofing materials.

FAR'S resident forensic anthropologist, Gabriel Flores, assisted with some of the tougher identifications. Among confusing finds were fiber insulation, which, when burned, can resemble human hair; also, white plastic, which, charred, can mimic bone.

The area between the stage and the ticket counter near the front entrance corridor was dubbed by the FAR team as the "panic zone" through which terrified rock fans rushed toward the exit. Eyeglasses and cell phones appeared to have been peeled off as patrons rushed across the floor. Few, if any, human remains were found in this area. By contrast, the area next to the ticket counter and the front entrance corridor contained "the highest concentration of human remains and the widest possible range of personal effects."

Personal effects were repatriated through the medical examiner's office, which hired an independent firm to photograph each item and produce an album that was shown to each family. If items were desired, they were cleaned and delivered to their owners' families. One personal item, a cell phone, was particularly troubling. It had nineteen messages on it from a distraught relative, each of which went something like: "Where are you?" "Are you OK?"

One family made a special request of the medical examiner's office. Could searchers possibly be on the lookout for a distinctive necklace worn by their daughter who died in the fire? Gould's group kept it in mind, but the task was akin to spotting a needle in a haystack. Days of digging and sifting by the FAR team yielded no necklace. It appeared that bad luck just trumped good intentions in this regard.

Some areas proved harder to search than others. Carpet on the floor of the main bar area snagged the team's excavating tools, greatly slowing the recovery process there. Removal of artifacts from tiled areas of the club was much easier.

The storeroom, where ten bodies were found (and where Dr. Metal was last seen alive), was almost completely untouched by fire. All within it must have succumbed to inhaling super-heated combustion gases. Even if its occupants had wished to use the two fire extinguishers found by the FAR team on a shelf there, they would have found them empty. One bore a tag attesting to its most recent inspection — 1995.

Midway through the project, FAR received a request that took it beyond its initial humanitarian objectives. The team was asked by the fire marshal to look for any nine-volt batteries near the stage area, which might have been related to igniting the pyrotechnics. The team located three such batteries near the stage, as well as a cardboard gerb tube. It could not be determined, however, if any of the batteries was related to the pyro.

Forensic Archaeology Recovery spent more than a week excavating the Station site. Its work was interrupted by one night of heavy snow and another day of freezing rain. Over the course of their work, the FAR volunteers excavated and sieved 340 buckets of fill, recovering eighty-eight discrete personal effects of victims and fifty-four biological specimens. They used the full panoply of archaeological tools found

on a dig — shovels, trowels, hand picks, brushes — even tweezers.

The work required a hardy constitution. Depression was as much a hazard as frostbite. FAR kept an EMT-certified safety officer on-scene at all times to assess environmental risks and treat minor injuries — also, to monitor volunteers' physical and emotional condition. Team members were not permitted to excavate or sieve alone, so that each could observe a colleague.

The bitter cold caused the volunteers to take regular breaks. Fortunately, there was a propane-heated tent on-site, provided by the Red Cross. By the eighth day of work, however, signs of physical and emotional exhaustion began to appear among the group. On day nine, Gould closed the archaeology operation, the team's work as reasonably complete as time, resources, and human endurance would permit.



Exterior of The Station, with mural by Anthony Baldino. When the Derderians shortchanged Baldino for his work, he left the face of John Lennon unfinished. So the club owners added glasses; voila, Ozzy Osbourne. (Photo, Anthony Baldino)



Minutes after pyrotechnics ignited foam on the walls, The Station was fully engulfed. Firefighters use a hand line as they extricate victims from the front entrance. A master stream is directed at the blaze from the right. (Photo, Geoffrey P. Read)



The first of four photos described in chapter 12 showing pyro ignition sequence at The Station. From left to right: Al Prudhomme (shoulder), Scott Vieira (back), Kelly Vieira (back), Mario Giamei (leather jacket), and John Arpin (bald head). Dan Biechele's head is visible to the right of the pillar, where he has just triggered the pyro. (Photo,

Dan Davidson)



Set list for Great White tour, recovered from the ashes of The Station. It was found in band manager Dan Biechele's portfolio, along with Jack Russell's guest list for the concert. (Photo, John Barylick)



ABOVE LEFT Fifteen seconds later, the gerbs have burned out and flames are visible on the corners of the drum alcove. Mark Kendall is playing onstage, and Dan Biechele (far right) heads away from the stage in search of a fire extinguisher. ABOVE RIGHT Flames now roar up walls at both corners of the drummer's alcove. From left to right: Al Prudhomme (cowboy hat), Dan Biechele (flashlight clenched in teeth), Mario Giamei, and Scott Vieira. (Photos, Dan Davidson)



Fire now flanks the drummer's alcove, from floor to ceiling. From left to right: Donna Cormier's hand, pointing toward band door, Eric Powers (just escaped from drummer's alcove), Scott Vieira (cigarette in mouth, turning toward the Cormiers), and Dan Biechele. Note the cardboard box in foreground labeled "DANGER" and "EXPLOSIVE," in which pyrotechnics were transported to The Station.
(Photo, Dan Davidson)



West end of club, post-fire.
Remains of stage and drummer's alcove in center



West end of club, reconstructed in evidence warehouse.
Note downward-sloping tile floor in foreground, recovered from
front entrance to The Station. (Photos, William White)



Exhibit 458, foam blocks recovered from wall of the drummer's alcove. Note corner cuts on each foam block,
which assisted in matching them to polyethylene foam scavenged by Mickey Mikutowicz seven years before the
fire. (Photo, William White)



Michael ("Mickey") Mikutowicz, in performance as "Ozzy Osbourne" at The Station. Note egg-crate polyurethane foam sheets over solid polyethylene foam blocks visible to the right in the photo. (Photo, Michael Mikutowicz and Edward Lashua)



Michael Derderian and Jeffrey Derderian leave the Kent County Courthouse under indictment for involuntary manslaughter. (AP photo)



ABOVE LEFT Jack Russell, post-fire. (AP photo) ABOVE RIGHT Dan Biechele at his sentencing, after pleading guilty to one hundred counts of involuntary manslaughter. (AP photo)



Linda Fisher, at home six years after the fire. (AP photo)



Memorials at the Station site.
Note Barry Warner's house in right rear.
(Photo, John Barylick)

Not all of FAR'S work could be accomplished with tweezers and brushes. One day, a mechanical loader/grabber was called in to move mounds of debris so that further floor areas could be excavated. Brown student Zach Woodford stood shivering alongside Richard Gould, watching as loose material dribbled from the loader's claw, on the off chance that it might contain artifacts. When a gold chain glinted from the refuse, Woodford signaled for the loader operator to stop.

It was the necklace they had been asked to look for by the grieving family. Repatriation of that artifact alone was proof to the FAR team that its work had not been in vain.

CHAPTER 22

CIRCLING THE WAGONS

We had permission to use the pyro.

— *Jack Russell, while the fire still raged*

At no time did I or my brother authorize or OK the use of pyro by the band Great White.

— *Jeffrey Derderian, five hours after the fire*

Our inspector missed nothing. They were in compliance.

— *West Warwick fire chief Charles Hall, seven days after the fire*

Our officials were doing their customary public duty in a conscientious way.

— *West Warwick town manager Wolfgang Bauer, one month after the fire*

IT'S A GENERALLY ACCEPTED NOTION IN THE LAW that statements made by witnesses contemporaneous with a critical event tend to be more trustworthy than accounts rendered long after the fact. For this reason, court rules are loosened to allow into evidence hearsay recitations of “excited utterances” made out of court in the heat of a critical moment. On the other hand, time for research and reflection can sometimes contribute to the accuracy of witness accounts.

For potential criminal and civil defendants in the Station nightclub fire, however, neither phenomenon would obtain. Most immediately lawyered up, clammed up, or, more commonly, gave patently false or misleading statements in their haste to deflect blame. In the minutes, days, and weeks following the tragedy, one after another of the responsible parties went public with everything from selective truths to the big lie. At their most benign, these dubious pronouncements merely demonstrated people’s innate capacity for deception when threatened. At their worst, they were pitiful insults to the memory of Station fire victims.

The commonsense question on the lips of everyone who saw video of Great White’s abortive performance at The Station was, “How could anyone set off fireworks in that firetrap?” To the average layman, the issue boiled down to whether Great White had permission from the club to do so. (Not that permission would have made the use of pyro without required permit and licensed pyrotechnician legal, but it was an easy starting point in casting blame.) Dan Biechele and Jack Russell said, “Yes, the band had permission”; the Derderians, emphatically, “No.”

One of the facts supporting Biechele’s position was that his computerized “advance

sheet” for the concert, prepared after consultation with Mike Derderian a week before the show and seized by investigators immediately after the fire, read, “Pyro: Yes,” suggesting that permission had been given. Additionally, in earlier venues on the tour like Shark City in Illinois and Ovation in Florida, where permission for pyro had been denied, Great White did not use it.

Even more telling were arrangements for Great White’s scheduled appearance three days *after* The Station. It was to be at a venue in Hartford, Connecticut, called the Webster Theater. Dan Biechele had hired a videographer, John Lynch, to tape Great White’s performance there. When Lynch attended the Station concert to prep for his shoot by watching Great White’s show, Biechele told him that the Webster Theater performance would be identical to the show at The Station, “but they were not going to be using pyrotechnics because they didn’t receive permission to do so.” Lynch, who was more or less “with the band,” escaped uninjured from The Station through the band door.

Did Great White simply slip its pyrotechnics past the Station management, who would have denied permission if asked? The answer probably lay in the history of prior pyro use at the club. On that point, Jeffrey Derderian could not have been clearer. Five hours after the fire, he sat slumped in a back booth of the Cowesett Inn. Opposite him were Rhode Island assistant attorney general Randy White and West Warwick detective George Winman. Across the street, the horrific process of removing charred bodies from his nightclub was well under way.

White asked Derderian several questions about whether pyrotechnics had been used by various bands at The Station. The club owner’s answer was that it never happened. The prosecutor described sparklers, flashpots, and “devices that deploy open flames of any kind.” But Derderian stood fast. They were never used. The club owner extemporized, adding that when Great White played The Station in 2000, Jack Russell asked for permission to use pyrotechnics, but it was denied. (Unknown to Derderian, Great White had never used pyrotechnics on any tour before December 2002.)

No matter that W.A.S.P., under the road management of Dan Biechele, had fired off Blackie Lawless’s codpiece gerb at The Station in 2000. Similarly, the fact that Holy Diver had used flashpots; Lovin’ Kry, Hotter Than Hell, and Human Clay had all used gerbs; Dirty Deeds, homemade gunpowder-fueled flashpots; and 10/31 used butane fire-breathing — all on multiple occasions — must have slipped Derderian’s memory in the excitement of the moment.

Two days later, prosecutors asked the same questions of club manager Kevin Beese, and his story echoed Derderian’s. “I’ve had bands ask about doing pyro, and the answer is always no,” explained Beese. “You know, we don’t do pyro. We don’t do fire. We don’t do bombs.”

On the other hand, Beese cautioned that he just might not have seen everything that went on in his single-story, four-thousand-square-foot club: “There’s a lot of times I

might be in the basement getting a beer or changing a keg. I might, you know, I might be in the back grabbing a bottle out of a closet, you know what I mean?" And, as for pyrotechnics themselves, Beese pleaded ignorance: "I'm not too familiar with any pyros or anything like that. . . . You're talking Portuguese to me when you're talking about pyros and stuff like that." Whatever Beese had learned from Frank Davidson's demonstration of twelve- and ten-foot gerbs at The Station, in advance of Human Clay's appearance there, had apparently been displaced by more pressing concerns.

Frank "Grimace" Davidson, who had illegally shot pyro at The Station for Human Clay multiple times, heard from news reports about Jeff Derderian's post-fire denial of prior pyro there and was having none of it. When he shot *his* pyro at the club, Davidson at least brought Scott Gorman along, with fire extinguisher at the ready. And Davidson just knew too many people who had died in the fire.

So, Davidson told his whole history to the police — how he'd liberated gerbs from his prior Florida pyrotechnics job; how he'd demonstrated them for Beese and Stone; how he'd shot pyro twice at The Station for Human Clay; how Beese sought to hire him to do it for the club on a regular basis; how he was scheduled to shoot pyro for a video at The Station that very week; and how he'd spoken by cell phone with Scooter Stone while the fire still burned. Armed with this information, prosecutors reinterviewed Beese three days after his first statement.

In his second statement, Beese admitted that some bands' use of pyro at The Station might have escaped his notice: "I mean, it's quite possible if they did have some kind of display like that, I might have missed it. I might have been in the back. I could have been on the phone. I could have been booking bands, you know what I mean? . . . I'm not saying that there hasn't been a band that's come in and slid it by us. . . . But like I said, I'm in and out of the back room, I'm in and out of the cooler, you know what I mean?"

As to whether he knew anyone named Frank Davidson, however, Beese was immovable: "I really have no idea who he is." "Nobody's ever demonstrated any kind of pyrotechnic thing for me," he added. Asked if he ever tried to hire a "Frank Davidson" to shoot pyro, Beese flatly denied it. "The name doesn't even ring a bell," declared Beese. Further inquiry would reveal at least this final denial to be truthful.

In his statements to investigators, Frank Davidson also mentioned Paul Vanner, The Station's soundman, as someone familiar with prior pyro at the club. He claimed to have known Vanner since high school. Police followed up that lead with Vanner himself. In a statement given four days after the fire, Vanner admitted that a KISS tribute band and Dirty Deeds had previously used pyro at The Station. But, as to knowing anybody named Frank Davidson, well, he was as adamant as Beese: "I don't know any Frank Davidson."

Davidson's story simply did not check out.

Every public tragedy has its share of wannabe witnesses, and the Station fire was

no exception. One woman gave police a detailed, increasingly fantastic account of how she escaped the fire, when she was actually participating in a community theater rehearsal of *A Chorus Line* in Massachusetts that night. Could it be that Frank Davidson was just another wacko with a vivid imagination, looking for his fifteen minutes of fame?

Reporters and the public wanted answers from the town of West Warwick, too. How could a club with highly flammable foam on its walls pass fire inspections? Was the club overcrowded that night? Just what *was* the club's permitted capacity?

Some answers would be long in coming. Some would never be given. As to the club's legally permitted occupancy, no one seemed to know. On the day after the fire, West Warwick fire chief Charles Hall told a reporter for the *Providence Journal* that The Station's permitted occupancy was "300." (He was only off by 104.) He "strongly denied" to reporters for the *Boston Herald* that there had been more than 300 patrons in the club at the time of the fire. (Confirmatory interviews and body counts after the fire showed that this statement by Hall was low by a mere 162.)

The man who had increased the club's capacity from 253 to 317 in December 1999, then to 404 only three months later, West Warwick fire marshal Denis Larocque, had no public comment after the fire. In a taped police interview, however, he was asked, "Do you know if you've had any complaints from citizens directly to the fire department or to yourself regarding overcrowding there?" Larocque answered, "Um . . . we haven't had any complaints, um, that I can recall about any overcrowding or any type of complaints, complaints of that nature."

Perhaps Larocque forgot that on November 15, 1999, acting West Warwick police chief Gerald Tellier wrote to the fire chief at the time, Peter Brousseau, stating "there have been a number of complaints about the Filling Station located on Cowesett Avenue. Could you please have your Fire Prevention Officer [Larocque] check that building and advise me as to the correct occupancy limit for the building?" It probably also slipped Larocque's mind that he himself then wrote to the building's owner, Triton Realty, on December 13, 1999, that "a complaint was received in this office concerning The Filling Station." Perhaps Larocque had also forgotten that on February 18, 2000 — *one month before he increased the club's capacity to 404 at the request of Michael Derderian* — his own boss, Fire Chief Richard Rita, had written to the West Warwick Town Council regarding The Station's liquor license transfer to the Derderians: "Another issue that is of grave concern to me is an ongoing problem of overcrowding which occurs at this establishment. Occupancy limits are determined and are exceeded on busy nights. Again, this presents a problem should evacuation or emergency medical treatment become necessary."

Given the post-fire confusion over the permitted occupancy of The Station, and the many requests by news media for reliable information on that subject, the town

solicitor for West Warwick, Timothy Williamson, undertook to clear the air, publishing a “To Whom It May Concern” letter on March 14, 2003. A tour de farce of inaccuracy and obfuscation, the attorney’s letter contained the following highlights:

Please note that the capacity numbers in the facility formerly known as Glenn’s Pub, Crackerjacks, The Filling Station and The Station have changed because of a request by owners of the property to change the use of the facility. Specifically, the last change in the occupancy numbers came about at the request of the Derderian brothers, through their company, DERCO LLC, to change the use of the facility.

A true “change of use or type of occupancy” would have ended The Station’s grandfathering for no-sprinkler purposes. Williamson’s letter uses the phrase “change of use” or “change *the* use” five times.

The change of use consisted of moving three pool tables from the front bar area (left hand side of building) to the atrium greenhouse area. The change resulted in additional room, providing for a higher number of occupants in the building.

Actually, the pool tables could not have fit in the “front bar area (left hand side of building).” More important, their location within the building was immaterial. Pool tables take up the same amount of square footage — the basis for occupancy calculations — wherever they are located. Moving them to a different location within the building does not create “additional room.”

Pursuant to State Law and the Rhode Island Fire Code and the NFPA Code, approximately seven square feet is provided for each person standing.

Larocque used just five square feet per standee. Then, he called the entire building “standing room” to get his 404.

If [the Derderians] anticipated the crowd exceeding the maximum capacity, they were supposed to request a firefighter. On the evening of February 20, 2003, the Town of West Warwick never received a request from the Derderian brothers and/or DERCO LLC for the presence of a firefighter.

Hiring a firefighter does not expand a building’s maximum occupancy. The maximum capacity may not be exceeded. Period.

Needless to say, Attorney Williamson’s “To Whom It May Concern” letter raised more doubts about the competency of West Warwick officials than it quelled. But Williamson had an equally astute ally in West Warwick town manager Wolfgang Bauer. The town manager pronounced that, when Larocque raised the club’s occupancy to 404, “He did that for a purpose that had very concrete and sound principles behind them [*sic*]. He didn’t do it on a whim.” Bauer never explained what those sound principles might be.

Neither was it ever explained how Larocque overlooked nine hundred square feet of highly flammable polyurethane foam covering the entire west end of the club during multiple inspections over three years. The response of Fire Chief Hall was simply to deny that Larocque missed it. “Our inspector missed nothing,” asserted

Hall. “They [The Station] were in compliance.”

Town Manager Wolfgang Bauer took a slightly different tack. “We didn’t see it [the foam] because we either missed it *or it wasn’t there*,” he speculated, floating the novel theory that the Derderians, sensing multiple unannounced fire inspections, somehow removed nine hundred square feet of glued-on foam from walls and ceilings just in time for each inspection, then reglued all the foam back on as soon as inspections were complete. Bauer asserted, “At the outset, we clearly wish to state that we believe our town and our officials acted appropriately in inspecting The Station. Our officials were doing their customary public duty in a conscientious way.”

Wolfgang Bauer was in no hurry to shed light on the “conscientious way” that Larocque had performed his public duty, circling the proverbial wagons around the town’s fire marshal. Town employees were under orders not to give reporters access to Larocque. One reporter was even threatened with arrest by a West Warwick police officer when he went to Larocque’s house to interview him.

Meanwhile, criminal investigators remained in a quandary over Frank Davidson’s story. Both club manager Kevin Beese and soundman Paul Vanner denied Davidson’s accounts of The Station’s encouraging pyrotechnics there. What’s more, Beese and Vanner claimed not to even know the guy. The police would have to somehow tease out who was lying. If only investigators could listen in on phone calls between Davidson and the two club employees, they might just learn the truth.

A wiretap is a court-ordered secret surveillance of a phone conversation. Neither party to the conversation knows the conversation is being recorded — until it is too late. But when police have one cooperative witness and another not so cooperative, they sometimes use a recorded “controlled call.” A controlled call is one in which the apparently cooperative witness, in the presence of, and under the supervision of, the police, calls the less cooperative one. The caller follows an agreed-upon outline, which is designed to elicit admissions from the other person. The Rhode Island State Police used separate controlled calls by Frank Davidson to Kevin Beese and to Paul Vanner in an attempt to confirm Davidson’s story. The calls’ content proved to be enlightening, if not particularly enlightened.

On the issue of whether Davidson actually knew Beese and Vanner, that much was readily apparent from the opening seconds of each call. As to whether either club employee was aware of prior pyro at the club, the transcripts of the calls could fairly be entitled, “Beavis and Butthead Analyze Fault in the Station Fire.” Studies in rationalization and circumlocution, the two conversations establish beyond dispute that employees of the club well knew that pyro was used there for years, with permission often explicit, but sometimes tacit. In his call, Vanner volunteered that once a band was given permission by the club to use pyro, it probably wouldn’t ask permission on subsequent gigs.

Contrary to the statements he gave police, Beese admitted to Davidson in his recorded call that permission to shoot pyro was, indeed, given in the past: “Some we knew about, some we didn’t know about. . . . But it’s not like every show we have is a pyrotechnic thing.” As far as Beese was concerned, the prosecutors should have only focused on Dan Biechele. “The guy from Great White is the guy that should go down,” was the club manager’s considered legal opinion.

Unaware that the call was being recorded, Beese confirmed Davidson’s claim that he had demonstrated pyro for Beese, and shot it at concerts at The Station:

Davidson: And you know, he [Biechele] didn’t have any extinguishers or, I mean, that was a real dumb move on his part.

Beese: Oh, it was really dumb.

Davidson: Yeah.

Beese: It was real dumb.

Davidson: I mean, at least we had, you know, we had Scott [Gorman, holding a fire extinguisher] there and all that shit, and I had Aaron there and, you know.

Beese: Right.

Davidson: So at least I had my ass covered that, you know, the nights I shot. I just want to make sure that I, you know.

Beese: Yeah, and what was that, like once, twice? You know what I mean?

Davidson: Yeah, twice.

Beese: You know what I’m saying?

Davidson: Right, right.

Beese: I mean, like what? Maybe, I don’t know, a year apart, eight months apart?

Davidson: Yeah.

Despite Davidson’s, Vanner’s, and Beese’s reliance upon stoner vernacular and non sequiturs, a common theme emerges from the call transcripts. It is, essentially, that the club let people it knew, like Davidson, shoot pyro, because they seemed to know what they were doing, and because club employees told them to be careful not to “burn my building down” or “make any stupid mistakes” (quoth Vanner). Many others simply shot pyro there without objection by the club. But, with the circular logic that hindsight bestows upon the truly clueless, the club would never have given permission to Great White if it knew that *their* pyro was going to kill so many people.

All of which proved that Beese had flatly lied to investigators about his knowledge of prior pyro at the club. But what of both Beese and Vanner denying any knowledge of Frank Davidson? The all-too-simple answer appears in each call transcript. Davidson’s call to Vanner begins:

Recipient: Hello.

Davidson: Is Paul there?

Recipient: Who’s this?

Davidson: Grimace.

Recipient: Who?

Davidson: Grimace.

[Vanner picks up phone.]

Davidson: Hey, what's up?

Vanner: What are you doing, man?

Davidson: Dude, what the fuck happened?

Vanner: Fucking kid fucking blew up the club, brother.

Davidson: Who?

Vanner: Fucking idiot from fucking Great White.

Davidson: Ugh. What the fuck. I talked to Scooter like right after it, like when he — he was, like, out — when you guys were outside, or whatever.

Vanner: Oh, did you?

Davidson: Oh, yeah, dude.

Vanner: Oh, really? What did he say?

Davidson: He told me the pyro looked fine.

Vanner: Oh, really?

Davidson: Yeah.

Vanner: Oh. It was fucking out of control, brother.

...

Vanner: . . . *What's your real name, bro?*

Davidson: Frank Davidson.

Vanner: Yup, that's it; it came up, man. Somebody asked me about, "Do you know this kid, Frank Davidson?" And I was, like, "No, I don't know him."

The same theme was echoed in Davidson's recorded call to Kevin Beese:

Beese: Whatever. I mean, the whole day was going smooth, man. Not a problem, nothing. And then this shit, you know?

Davidson: God, dude. *Hey, do you know my real name?*

Beese: No.

Davidson: No?

Beese: No, why? What is your real name?

Davidson: My real name?

Beese: Yeah.

Davidson: It's Frank Davidson.

...

Beese: They did ask me about a Davidson.

Davidson: What?

Beese: They did ask me about a Davidson and I told them I didn't know him.

Davidson: You're kidding me.

Beese: No.

Davidson: No shit?

Beese: Nope.

Town officials and club owners were not the only ones running for cover when tragedy struck. Musicians, their lawyer, a foam salesman, a videographer, a landlord

— all distinguished themselves by spinning tales or covering tails.

Jack Russell told Larry King in a televised interview that he was “pulled out” of the club while he tried to go back in to rescue people: “Actually, I was pulled out. I’m not sure who pulled me out the back door. To this day, I don’t know. I kept trying to go back in and make sure my guys and people had gotten out. I kept getting pulled out and pulled out.” This is not corroborated by any eyewitness account, nor does it appear in Russell’s own immediate post-fire police statement. On the Butler video, band members are seen scurrying out the band door — under their own power.

Ed McPherson, Russell’s lawyer, appeared on Larry King with his client, blaming the polyurethane foam, an inward-opening exit door, and overcrowding for the tragedy. He conveniently overlooked Great White’s illegally igniting fireworks inside the building. In fact, the inward-opening door, while a repeated fire code violation, played no part in the outcome; it is seen on the Butler video wide open during the entire event.

Barry Warner, the neighbor who worked for American Foam Corporation and took the Derderians’ order for flammable polyurethane foam, told the Associated Press that the Derderians approached *him* after learning that he worked for American Foam. According to Warner, he “absolutely, positively” wasn’t selling when the Derderians visited him. “It was late afternoon. . . . I wear a suit and tie when I sell or work. . . . I was sitting there in my jeans and a T-shirt,” he explained. However, Warner’s sworn grand jury testimony established that, in fact, *he* suggested and sold the foam to the Derderians.

The *Providence Journal* reported that Brian Butler “stopped taping and came to the aid of trapped patrons shortly after the fire heated up.” Actually, on the video, Butler pauses for approximately three seconds immediately after exiting the front doors of the club. With the exception of that brief pause, Butler filmed continuously until fire completely engulfed the building, never putting down his camera to reach for a single patron seen struggling to escape from a door or window. Butler first set his camera down six minutes after he exited the building, in order to phone his television station and report that he “got it all on tape.”

Triton Realty Company’s lawyer claimed that the landlord was unaware that the building had become a nightclub. Triton believed, according to its attorney, that “there was food and maybe some light entertainment from time to time.” Evidently, the landlord didn’t listen to radio or read the newspaper. For years, the Filling Station had billed itself as “Rhode Island’s Number One Party Club,” advertising national and local acts. Moreover, under their Triton Realty lease, the Derderians were required to report monthly sales to the landlord by category. Their March 2002 report to Triton stated, “Food: \$1,000. Liquor: \$6,900. *Other*: \$8,100.”

The most blatant incidents of turning (or covering) tail involved those who had the most to lose. The Derderian brothers filed for personal bankruptcy two years after the

fire, shielding their basic assets from creditors — including victims of the fire. Triton Realty transferred millions of dollars in properties to related limited partnerships right after the fire, while its principal, Raymond Villanova, deeded his family home to his wife, alone. Corporate behemoth Shell Oil Company, which had earlier denied the Derderians approval to purchase the gas station where Erin Pucino worked (the brothers bought it anyway, using the prior owner as a “front”), demanded that the brothers’ ownership be terminated. Shell wanted no connection to the Derderians after it learned that Station nightclub flyers and coupons had been distributed at their gas station in advance of the Great White concert.

Anyone with deep pockets could not distance himself or itself fast enough, or far enough, from The Station, the Derderians, and Great White. In short, everyone hunkered down and shut up.

That is, everyone except Dan Biechele. Great White’s road manager, who had set off the fatal pyrotechnics, cooperated with the police investigation from the moment of the tragedy onward. Visibly tortured by what his carelessness had wrought, Biechele told all, and immediately. And in that, he distinguished himself from all the other miscreants.

CHAPTER 23

CRIME AND PUNISHMENT

ONCE THE BASIC FACTS OF THE STATION FIRE became known, there was a public outcry, fueled by talk radio and media reports, for criminal prosecution of those responsible for the tragedy. In the weeks following the fire, an additional four hospitalized victims died of their injuries, raising the total fatalities to one hundred. Considering the unlicensed pyrotechnics, the overcrowding, and the use of flammable foam as soundproofing, surely several people would go to jail — and for a long time — for taking so many innocent lives.

The immediate objects of this wrath were the Derderian brothers, town fire inspector Larocque, and Great White's alter ego, Jack Russell. However, criminal justice would prove to be slow and elusive in the Station fire case, leaving far too many questions unanswered for many victims' families.

The public appeared divided, paradoxically, between two camps: the majority, rolling out the tumbrels and calling for heads to roll, and a small minority, who wondered aloud how "an accident" could give rise to criminal prosecutions. The first was characterized by Christopher Travis, who escaped from the blaze. "They ought to do life," he urged. The minority position was exemplified by one Internet rant: "I cannot understand why someone/anyone should go to prison for the Station fire. Yes, people lost their lives, but it was an accident. . . . God called for those who past [sic] at the Station."

To forgive may be divine, but it was certainly not the prevailing post-fire sentiment in Rhode Island.

The issue of whether anyone would or should be charged with crimes arising from the fire called into question the nature of crime itself and the purpose of prosecution, generally. A crime is, by definition, an offense against the people of a state as a whole. That is why criminal cases are captioned, "*People of the State of California vs. John Doe*," or, simply, "*State of Rhode Island vs. John Doe*." This is as distinguished from *civil* wrongs, which are offenses against individuals, for which the latter may file a civil action. The only person who may prosecute a criminal case is a representative of the state. In Rhode Island, that person is the attorney general.

Whether a conviction should be sought would appear to logically depend upon whether punishment is warranted. This is because conviction of a crime, ipso facto, results in punishment. But what are the purposes of punishment, and would any of those purposes be served in the Station case?

Historically, legal scholars have spoken of five distinct “theories” of punishment: deterrence, incapacitation, rehabilitation, retribution, and denunciation. The first, deterrence, can be specific (as to the charged persons) or general (chastening the public at large). While it’s doubtful that the Derderians, or general public, needed to be deterred from again hanging flammable foam on nightclub walls, public officials could probably have used a wake-up call when it came to inadequate fire inspections.

The second theory of punishment, incapacitation (keeping the criminal out of circulation to protect the public), would also appear inapplicable in the Station case. The citizenry was hardly at risk of Dan Biechele again shooting off pyrotechnics in a nightclub. And while it might be speculated that any number of those involved might be a candidate for rehab of some type, illegal use of pyrotechnics was probably not their greatest risk.

It would appear that the only two purposes of punishment applicable to the Station fire were retribution (punishment simply because the criminal deserves it) and denunciation (expressing society’s disapproval of blameworthy conduct). But they were purpose enough. The public loudly clamored for both.

Crimes generally involve the union of an act with a guilty state of mind — something called *mens rea* (Latin for “guilty mind”). The tricky part is that some crimes do not require actual intent to cause harm. This is where the crime of involuntary manslaughter comes in. It is one of the rare species of crime in which the necessary *mens rea* is established if the defendant was just stunningly careless. States’ criminal codes variously describe this state of mind as “grossly negligent,” “reckless,” or demonstrating “extreme indifference to the value of human life.” Drag racing in a school zone, for example, might qualify.

Some states have a second flavor of involuntary manslaughter for which one may be convicted if one causes loss of life during the intentional commission of a minor criminal offense. Sometimes called “misdemeanor manslaughter,” this crime is itself a felony; it merely *occurs during* the commission of a misdemeanor. For example, discharging a firearm in the air within city limits is a misdemeanor in many states; if the falling projectile randomly strikes and kills someone, a charge of misdemeanor manslaughter might ensue.

Rhode Island’s criminal code contains both the “grossly negligent” and “misdemeanor manslaughter” types of involuntary manslaughter. Both would find application in the wake of the Station fire.

The criminal investigation of the Station fire began with statements taken even as the fire raged, and continued for months thereafter. After most of the investigation was complete, the attorney general faced a decision as to how to charge potential defendants. Rhode Island has two routes for felony charging: informational charging and grand jury indictment. In informational charging, the attorney general files a “criminal information” charging the defendant with one or more crimes. The

defendant thereafter has a right to a “probable cause hearing” before a judge in order to determine whether there is sufficient evidence to charge. Alternatively, the attorney general can present evidence to a grand jury, which then either issues a “true bill of indictment,” or not. In the case of the Station fire, the AG took the grand jury indictment route.

Indictment by a grand jury has the outward appearance of a citizens’ investigation. It is ostensibly informed by community sentiment and, to that extent, gives the attorney general public relations “cover” for indicting or not indicting someone. In fact, the grand jury process is carefully choreographed, and controlled, by the prosecution team.

A Rhode Island grand jury consists of twenty-three individuals, drawn randomly from lists of registered voters. Grand jurors are committed to be available for as long as eighteen months (not continuously), so that they may hear evidence as to whether crimes have been committed and who may have committed them. Only twelve are needed to constitute a quorum. In the case of the Station fire, Rhode Island attorney general Patrick Lynch wasted no time in convening a grand jury. Six days after the fire, jurors were seated to begin hearing the first of over one hundred witnesses. The process would continue, on and off, for another ten months.

No judge presides over a grand jury. Prosecutors from the attorney general’s department subpoena witnesses to testify, direct the questioning, and advise the grand jurors as to the law. Witnesses are not allowed to have counsel present as they testify; however, they may ask for a recess if they wish to consult their attorney. It is not a freewheeling investigation into all facets of an incident. Rather, the prosecutors begin the process with a good idea of whom they would like to seek indictments against, and for what crimes. They present evidence supportive of indicting those “targets” — and, generally, only those targets.

Grand jury proceedings are conducted in secret; no one but participants may attend. Transcripts of grand jury testimony remain sealed forever (available to a defendant only if he is actually indicted), the theory being that if there is insufficient probable cause to charge a citizen, then the fact that the grand jury heard evidence against him should not be made public. In the case of the Station fire, however, a special exception was made, and the Superior Court eventually released transcripts of the grand jury proceedings. They provide a rare glimpse into the workings of a little-understood body.

Perhaps the most telling transcripts of the Station fire grand jury proceedings are those of West Warwick fire marshal Denis Larocque’s testimony. He was asked by prosecutors about the history of fire code violations at The Station, as well as his calculations to vastly increase the building’s permitted occupancy. His assertion that he simply didn’t notice the foam on the walls during multiple inspections (while he cited the inward-swinging door upon which it was glued) passed without challenge by

his questioners. Larocque's capacity calculations, also unchallenged, were a muddle of confusion. He was never asked how an *entire building* could be classified as "standing room" when the applicable statute limited such an area to "that part of the building directly accessible to doors for hasty exit." When jurors themselves sought to cross-examine Larocque on these points, prosecutors jumped in, suggesting that the inspector just read aloud certain statutory sections, rather than directly address the jurors' questions.

Not surprisingly, when, after ten months of testimony, the jurors were asked if they wanted to hear from additional witnesses, their first response was to ask the prosecution team whether Larocque could be found criminally liable for his actions. No clear answer appears in the published transcripts.

On December 4, 2003, the grand jury voted to return indictments against only three persons: Dan Biechele, Jeffrey Derderian, and Michael Derderian. Each defendant was charged with one hundred counts of involuntary manslaughter (criminal negligence) and one hundred counts of misdemeanor manslaughter — one for each person killed in the fire. Each count carried a maximum penalty of thirty years in prison. Theoretically, Biechele and the Derderians could have all drawn life sentences.

Unindicted, and completely unmentioned, were Denis Larocque and Jack Russell.

The Derderians were already in more than a little legal trouble. Days after the fire, it was determined that they had never purchased workers' compensation insurance for the employees of The Station. (The brothers were apparently aware of the concept of workers' compensation coverage, because they did buy it for the few employees of their gas station.) Notwithstanding their earlier assurances to Paul Vanner, the Derderians had simply ignored the legal mandate to provide insurance for their workers — insurance that would have paid, among other things, \$15,000 for burial expenses to each of the families of Tracy King, Steve Mancini, Andrea Mancini, and Dina DeMaio

"Comp" insurance at The Station was not only mandated by state law — it was required by contracts the Derderians signed with national acts appearing there. Their contract with Eddie Money, for example, required "a policy of Worker's Compensation Insurance covering all of Purchaser's employees who are involved in any manner in the installation, operation and/or maintenance of the equipment provided by Artist." Not to worry, though. The Derderians evidently did not sweat the fine print.

The Derderians had bigger problems, in any case, than ignoring workers' compensation laws. The felony indictments that issued from the grand jury proceedings threatened their (and Dan Biechele's) very liberty. The factual bases for those criminal charges were that Biechele set off the illegal pyro, and that the Derderians allowed illegal pyro, overcrowding, and flammable foam wall covering at

the club. It didn't matter that Michael Derderian happened to be vacationing in Florida on the night of the fire. There was strong precedent for his criminal liability in absentia. That precedent was an even worse New England nightclub fire.

When Boston's Coconut Grove nightclub burned in 1942, killing 492 patrons, its owner, Barnett Welansky, was in the hospital with an illness. Although the club employed about eighty persons, its business was completely dominated by Welansky, who owned all its corporate stock and took all its profits. Like the Derderians, Welansky often spent evenings at the club, overseeing his business. He was not, however, present on the night of the fire. That night, a combination of blocked exits, overcrowding, and flammable decorative furnishings resulted in tragedy. However, because the conditions on the night of the fire were no different from those he condoned when he was actually present, Welansky was convicted of involuntary manslaughter and sentenced to prison. The parallels to Michael Derderian's case were striking. Welansky's case was, as lawyers say, "on all fours" with Michael Derderian's.

For his part, Dan Biechele had nowhere to go by way of defense. He had unquestionably committed a misdemeanor when he set off his unlicensed pyro, and that act proximately resulted in one hundred unintended deaths. Accordingly, in May 2006, Biechele agreed to change his plea from "not guilty" to "guilty" on one hundred counts of involuntary (misdemeanor) manslaughter. In exchange, the prosecutor agreed to recommend a sentence of no more than ten years' imprisonment, the actual sentence to be decided by a judge after a sentencing hearing.

A sentencing hearing consists of defense counsel's argument urging leniency, the prosecutor's argument for strong punishment, and the defendant's own statement, should he wish to make one. In Rhode Island, it may also feature "victim impact statements," an opportunity guaranteed by the Rhode Island Constitution, whereby crime victims may describe to the court the crime's impact on their lives. Theoretically, the court may take such statements into consideration when meting out its sentence. Victim impact statements in the Station case would prove to be both heartrending and frustrating.

On May 8, 2006, the day of Dan Biechele's sentencing hearing, a phalanx of TV network trucks poked their dozen broadcast antennae skyward from parking spots along the driveway of the new Kent County Courthouse. On the roof of the nearby parking garage, tents were erected from which reporters could do stand-ups with the steel-and-glass courthouse over their shoulders. In the building's largest courtroom, and in overflow rooms fed by audio and video monitors, families of Station victims gathered, waiting to be heard. To say that every television in the state was tuned to the proceeding would not be an exaggeration. Rhode Island's citizens were transfixed, reliving the anguish of the fire — but unable to turn away.

When Dan Biechele entered the courtroom, he looked nothing like the road

manager for Great White of three years earlier. Gone were his shoulder-length bleached hair, goatee, and sunglasses; in their place, a suit, tie, and haircut suitable for a Rotary Club meeting.

Before hearing victims' impact statements, the judge laid out the ground rules: One speaker per victim. Five minutes per speaker. Speakers would be permitted to discuss *only* the impact that the loss had on them — *not* the culpability of the defendant, the absence of a trial, or their opinion of the proper punishment to be meted out. A child's life was to be summed up in five minutes; a parent's love, the same five.

Then the victim statements began — and continued for two full days. Evelyn King, widow of club bouncer Tracy King, was stoic. "Once I realized the severity of the fire, I knew I would never see him alive. I knew that my husband would never leave the building if there were people inside." She was right.

A burn-scarred Gina Russo spoke of her fiancé, Albert Crisostomi. They had been turned away from the band door by a bouncer, and only Gina survived. "[My fiancé] was taken away by somebody without any common sense," lamented Russo.

The father of Jimmy Gahan, the twenty-one-year old college DJ who had interviewed Jack Russell the evening of the fire, told the hushed courtroom that his son would have wanted "some measure of mercy" for the defendant.

Michael Hoogasian's sister asked those assembled, "Do you know what it's like to have two people you love so much die in such a horrific manner they can only be identified by dental records? Have you ever had to call your little brother's and sister's cell phones over and over again, until they were shut off, just so you could hear their voices [on the message recording]?"

Bridget Sanetti's mother described how her own fifty-eight-year-old mother declined cancer treatment after Bridget's death, choosing to join her granddaughter "in heaven." "I lost my mother, too," she said softly.

Despite the judge's admonition, several speakers had to be cut off when they spoke about what kind of sentence they wanted, or about Biechele, personally. They choked back tears and stifled anger during the two wrenching days of testimony. At home, in schools, and at their jobs, Rhode Islanders watched and cried along with them. It was the fire, all over again.

The sentencing itself took place on day three. First, Assistant Attorney General Randall White spoke, urging the court to impose the maximum ten-year sentence because of the massive loss of life and to "send a message." Next, Dan Biechele's attorney, Thomas Briody, gave an impassioned hour-long speech, stressing that his client had "committed a misdemeanor that night without any way of knowing the stage had been set for what the Attorney General is calling the perfect storm." In an apparent reference to Jack Russell, the lawyer contrasted Biechele's contrition with "the big rock 'n' roll singer, the man who abandoned my client." Briody urged no incarceration for Biechele.

Next came Biechele's turn to speak. He rose, and haltingly read from a prepared statement, pausing several times to choke back tears and regain his composure. His apology was heartfelt and devoid of any pretense that it could, or should, engender forgiveness on the part of fire victims. "I never wanted anyone to be hurt in any way. I never imagined that anyone ever would be. . . . I don't know that I'll ever forgive myself for what happened that night, so I can't expect anybody else to. . . . I'm so sorry for what I have done, and I don't want to cause anyone any more pain. I will never forget that night, and I will never forget the people that were hurt by it. *I . . . am . . . so . . . sorry.*"

And with that, Biechele sat down, covered his face with his hands, and sobbed. No one thought he cried for himself.

Then, it was time for Judge Francis J. Darigan's decision, the only speech that really mattered. Judge Darigan reviewed the public policy goals of punishment, and the factors he considered in reaching his difficult decision. He noted Biechele's exemplary school and work histories, as well as the defendant's sincere remorse. The judge explained how Biechele had handwritten individual letters of condolence and apology to each victim's family. He continued, "Over the last two days I have heard the virtual voice of Rhode Island lamenting the loss of 100 of its very talented, hard-working and fun-loving young men and women."

Then, Judge Darigan dealt with the nut of the problem. At bottom, a relatively minor offense had resulted in an incomprehensible loss of life. And that was the rub. "This court must render a sentence taking into account the devastating outcome of this crime; however, the law requires that the sentence be predicated *on the nature of the offense*, and not solely on the basis of the outcome of it. . . . Finally, it is most important to note, and admittedly hard for some to understand or distinguish, that the commission of this crime was totally devoid of any criminal intent on the part of the defendant."

Asking Biechele to rise and stand before him, the judge continued,

The greatest sentence that can be imposed upon you has been imposed upon you by yourself; that is, having to live a lifetime knowing that your actions were a proximate cause of the death of 100 innocent people. This Court can only fashion a sentence according to law and not according to the results of your actions. Any attempt by me or others to correlate any sentence imposed with the value of these lives . . . would be a dishonor to the memory of the victims of this tragedy.

Judge Darigan then sentenced Biechele to "4 years to serve . . . and 3 years of probation." His words triggered gasps and shouts from some victims' families. "You get your son back after four years!" cried one parent.

But in Rhode Island, "4 years to serve" is not really four years *to serve*. Dan Biechele would be eligible for parole in just sixteen months.

Many victims' families were frustrated by both the length of Biechele's sentence and the absence of a criminal trial. "We wanted answers," was the frequently heard

complaint. But this “wanting the truth to come out at a trial” was the product of a common misconception, created by TV courtroom dramas that furnish dispositive outcomes in sixty minutes.

Rhode Islanders embraced a naïve belief that a trial would have featured Biechele, the Derderians, and Jack Russell being grilled on the witness stand; that it would have definitively answered the question of whether the club gave permission to use pyro that night; and that, ideally, Denis Larocque, in a “Perry Mason moment,” would have suddenly stood up in the back of the courtroom and blurted, “Yeah. I ignored the foam. And I didn’t care” (as he was led away in shackles).

But trials don’t work that way. Defendants (if they’re smart) don’t often take the stand to testify. Witnesses, who may themselves be culpable, exercise their Fifth Amendment right to remain silent. Others simply lie. And *never* does anyone rise in the gallery to admit guilt.

Trials are, as often as not, a muddle of contradictory evidence, unproductive of satisfying answers. As contrasted with their TV counterparts, real-world trials usually come up short. Unaware of how trials usually play out, many Rhode Islanders, however, still clung to the hope that the upcoming Derderian trials would answer all questions, and that at least the two brothers would get more prison time than Biechele.

Trying the Derderian brothers would be a Herculean task for the prosecutors and judiciary. Statements had been taken from over 600 witnesses, and it was anticipated that over 250 witnesses would have to be called at each trial (particularly if the defendants did not stipulate to the club’s overcrowding that night). The proceedings would take many months, with no guarantee of convictions. Attorney General Patrick Lynch had a lot riding on this case. If the Derderians took a plea deal, its fairness would be second-guessed by voters; if the case were tried and the Derderians got off, it would be politically disastrous.

The strongest feature of the prosecution’s case was prior pyro use at The Station. At least a dozen bands had used some type of sparklers, flame effects, or flashpots during the Derderians’ tenure, and there was videotape of several of them. Particularly damning was the anticipated testimony of Station employee Lewis Cook (he of the post-concert snow-shovel cleanup technique). Cook was shown a video of Human Clay’s New Year’s Eve pyro concert. On that tape a voice is heard making announcements over the club’s sound system. Cook “positively and without hesitation” identified that voice as belonging to Jeffrey Derderian.

But that didn’t mean that every death could necessarily be tied to the brothers’ actions. Moreover, the prosecution would have to establish every element of the crimes “beyond a reasonable doubt,” a heavy burden of proof.

In September 2006, Judge Darigan announced, in somewhat unorthodox fashion, that a plea agreement had been reached that was acceptable to the Derderians and to the court. Rather than reveal its terms to the general public at a sentencing hearing, as

with Biechele, the judge first wrote a letter directly to each of the fire victims' families, detailing the sentence that would be imposed under the plea deal. The letter explained that, in accepting this resolution, the court sought to avoid a "lengthy, costly and heart-rending trial whose outcome was uncertain." The judge added, "prosecution and defense were unable to agree on the terms of a sentence satisfactory to each," and "the Attorney General reserves the right to object to the disposition I have decided to impose."

There would be no criminal trial. Of anyone. As far as the public was concerned, a plea deal had been struck over the objection of the prosecution. On reflection, though, the deal gave the attorney general the best of both worlds: he could not lose at trial, and he could still publicly object to the court's sentencing decision.

Unfortunately, someone in Attorney General Lynch's office got a little too enthusiastic in trying to distance the AG from the plea deal and "get out in front of" the story. Before Judge Darigan's letter could even reach the victims, a letter *from the Attorney General to the victims* was leaked to the press, as a result of which the families first learned the disturbing news from their TVs. In that leaked missive, Lynch stressed his disapproval of the sentences the court had decided to impose.

Judge Darigan reacted to the leak with barely contained rage. He distributed his own press release, which began, "The premature leak of the Attorney General's letter to the media by an anonymous source was unethical, reprehensible, devoid of any consideration for the victims of this tragedy and totally abrogated an agreement reached after weeks of discussion between the parties in this case. This Court sincerely regrets — beyond the Court's ability to articulate — the shock, anger, disbelief and sense of betrayal some of the families must feel because of the despicable action taken by the anonymous source within the Attorney General's Office." The court's press release particularly stressed the court's dismay that the first information the victims received about the plea change was the attorney general's criticism of it.

For the victims, it was a trifecta of disappointment. Bad enough, there would be no criminal trial. Worse yet, many objected to the sentences under the plea deal. As a final insult, any pretense that "victim impact statements" would have an actual effect on sentencing evaporated with the announcement that the judge had already made up his mind.

Nevertheless, September 29, 2006, was set aside for victim impact statements and sentencing of the Derderians. On that overcast morning, the same media horde that witnessed the Biechele sentencing gathered to broadcast twenty-nine victim impact statements from the courtroom. Judge Darigan stated in opening remarks that he did not plan to change his mind about the sentencing. Not surprisingly, the victim statements that followed were angrier than at Biechele's hearing — a strange kabuki theater of heartfelt words, knowingly spoken to no avail.

The father of Derek Johnson, who died in the fire, was emotionally overwrought. “I stand here a broken man, lost in a world without my precious son, Derek,” he stated. He asked, “with all due respect to the Court,” that his son’s name be removed from the criminal complaint’s allegations. “Now they only got 99,” he explained, stepping down from the witness stand.

The brother-in-law of Michael and Sandy Hoogasian spoke of his family’s “pain caused by disrespect, apathy and betrayal.” When he criticized the sentence to be imposed, stating, “justice is not being served,” Judge Darigan cut him off, declaring a recess. On reconvening, the judge instructed the speaker to restrict his comments to the effect the victim’s death had on his family, and not to engage in a diatribe against the proceeding — which diatribe the speaker immediately resumed, to loud applause.

The mother of John Longiaru, who died at age twenty-three, stood her ground: “We have been given a life sentence with no opportunity for parole. We all deserve a trial to find out why our loved ones died. A trial would not have been too hard for us. . . . I think it would have been too hard for you, Judge, and for Mr. Lynch.”

Dina DeMaio’s mother tried to voice her frustration with the Derderians’ sentence, but her daughters restrained her, literally covering her mouth and ushering her from the witness stand. Gina Russo turned to Judge Darigan and said, “You have done us a great disservice by not allowing us a trial. This is my life sentence.” The frustration in the room was palpable.

Victims’ disappointment was exacerbated by the Derderians’ respective sentencing statements. They were only obliquely apologetic, expressing sorrow, not for what the brothers did, but “for all the heartache resulting from this tragedy.” Passive voice was the order of the day. “Through a long list of mistakes, including our own, this tragedy occurred,” offered Jeff. And *they* didn’t cause injury; their *business* did: “We realize the business we owned has caused so much heartache and loss.”

Jeff Derderian drew tears from his brother when he sobbed, “There are many days when I wish I didn’t make it out of that building because, if I didn’t, maybe some families would feel better.” In a flourish of self-pity, he added, “To these families, I’m sorry that I did make it out. I know you would have liked it if I died, too.”

Perhaps most curious was Jeff Derderian’s statement that, “regarding the foam, I wish I knew how deadly and toxic it really was.” This is the same TV personality, Jeffrey Derderian, who referred to polyurethane foam on-camera as “solid gasoline” in a feature over two years before the fire.

But Jeffrey’s statement paled by comparison to Michael’s in terms of shrugging responsibility. The older brother began, “I’m Michael Derderian. I just want to say how deeply sorry I am *for the role I played* in this tragedy.” (By his account, he didn’t actually *do* anything. He just “played a role.”) Derderian continued, “We fully accept, *as business owners*” — evidently not as individuals — “that *we should not have relied on other people.*” Clearly, those “other people” messed up.

But Michael was just warming up. “I also want to say I’m sorry for not asking more questions about the deadly and toxic foam that we hung on the walls of our business,” he explained, apparently ignorant, as well, of his brother’s TV piece. “We were trying to respond to our neighbors’ needs as part of the community” — not “killing two birds with one stone,” as he’d told club manager Tim Arnold upon his return from foam salesman Barry Warner’s house.

The passive-voice “apology” continued: “There is so much pain and heartache *that happened on our doorstep*.” Then, sounding overtones of O. J. Simpson promising to find the “real killers,” Derderian warranted, “We will do everything we can so that every question can be answered to make sure that all the facts, not just some of them, come out, so everyone can understand what happened that night.”

Judge Darigan’s explanation of the men’s sentences followed. First, unlike Dan Biechele, the Derderian brothers would not be changing their pleas to “guilty.” Rather, they would change their pleas from “not guilty” to “nolo contendere” (or “no contest”). While legally the same as a guilty plea in Rhode Island, a “nolo” plea falls short of an admission of guilt. The judge then explained the agreed punishments:

For Michael Derderian, the sentence was identical to Biechele’s: eleven years of a fifteen-year prison sentence were suspended, with only “4 years to serve” (eligible for parole in sixteen months). His confinement would be nightly in a minimum security (open-access) facility, with daily work-release to attend a private-sector job.

Jeffrey Derderian’s sentence was slightly different. His *entire* prison sentence was suspended, and he was ordered, instead, to perform five hundred hours of “community service.” In criminal law parlance, he would “walk.”

Because the public had already had several weeks to ruminate, and rant, over the Derderians’ sentences, the mood in the courtroom immediately following the sentencing was numbness, rather than outrage. To many, the Derderians’ sentences were another example of the “Rhode Island shuffle” — shorthand for state action that would never do more than disappoint. It was bad enough that the Derderians appeared to get off with a wrist-slap, but what about Denis Larocque? And what about Jack Russell?

As for Larocque, the reasons why he was not charged were never publicly disclosed. However, he may have been the beneficiary of a Rhode Island statute providing that fire marshals “shall be free from liability” for acts or omissions while “acting in good faith” during the performance of their duties. While the legislative intent behind the law (as exemplified by the single reported case interpreting it) was probably to shield fire inspectors from civil lawsuits when they *actually shut down* a dangerous business, its broad language might be construed to confer immunity from criminal prosecution when an inspector completely overlooked hazards “in good faith.”

If the fire marshal immunity statute underlay the attorney general’s decision not to

seek an indictment against Larocque, it was never enunciated by him. Had he explained this legal impediment to prosecution, perhaps the public would have better understood Larocque's absence from the dock.

Instead, Lynch relied on a smokescreen of hyperbole. Six years after the fire, the attorney general began his own run for governor. Responding to criticism over not indicting Larocque, the AG brayed, "Don't you think that politically it would have been better for me to indict Larocque? But, constitutionally? Ethically? Morally? All grossly inappropriate." As to what "constitutional, ethical, or moral" dilemmas Lynch grappled with in deciding not to seek Larocque's indictment, he failed to explain. In reading how protective Lynch's prosecutors were of Larocque before the grand jury, however, it appears that the decision was made early on.

It's not a leap to surmise that two other considerations may have played a part. The first is that elected lawmen don't like to indict people, and then lose publicly at trial, even if on a "legal technicality" like the definition of "good faith performance of duty" in the immunity statute. All that the voters remember is that an indicted suspect "got off" on the AG's watch. Second, some prosecutors just find it hard to charge a "uniform" with a crime, whether that uniform is a cop's jacket or a fireman's turnout coat. In law enforcement circles, there is sometimes an attitude of "us" (public safety folks) and "them" (everybody else). And the former get a pass more than we'd like to think.

As to why Jack Russell was not charged with a crime, even less is known. Title 11, Chapter 13, Section 1 of the Rhode Island General Laws, the penal law that formed the basis for Dan Biechele's misdemeanor manslaughter conviction, states that it is a misdemeanor for anyone to "possess or . . . use" certain fireworks without required permit. Did Russell "possess or use" the fireworks that ignited The Station? The answer may lie (as it did for the Coconut Grove's owner) in the degree of control Russell exerted over the enterprise that was Great White. This is because "constructive possession" is generally recognized in criminal law. Under this concept, a person need not have actual physical possession of contraband such as a weapon or drug in order to be convicted of its possession, as long as he knows of its presence and has the power and intention to control it.

The contract documents found after the fire in Dan Biechele's briefcase establish beyond question that the business enterprise called "Jack Russell's Great White" was a creature created, and controlled in all respects, by Jack Russell. He alone agreed to where and when the group would appear, what songs it would play, how much it would be paid, what it would eat in the dressing room, and, by necessary implication, whether it would use pyrotechnics in its show. The band's engagement agreement trumpeted: "JACK RUSSELL (hereinafter referred to as "Leader") *shall at all times have complete supervision, direction, and control* over the services of his personnel on this engagement and expressly reserves the right to control the manner, means, and details

of the performance of services to fulfill the entertainment requirements.”

Yes, Dan Biechele, Russell’s employee, threw the switch. But nothing happened in Great White’s show without Russell’s say-so. If there was any principled reason why Jack Russell was not charged criminally in this matter, it was never publicly discussed by Rhode Island’s attorney general.

Four months before the 2010 Rhode Island gubernatorial primary, Attorney General Patrick Lynch, behind in the polls and lagging in fund-raising, announced his withdrawal from the governor’s race. Lynch’s departure meant that he would not have to answer hard questions about Denis Larocque or Jack Russell on the campaign trail.

At least one person was ready to ask them. David Kane was the father of the Station fire’s youngest victim, eighteen-year-old Nick O’Neill. Kane had publicly pledged to spend any money awarded him for Nick’s death to deny Patrick Lynch’s bid for governor. That would not now be necessary.

Lynch’s term as attorney general expired in January 2011. That month, workmen removed a bronze plaque that Lynch had affixed to the street-facing brick wall of his department’s headquarters in 2004. With no apparent irony, it quoted Stan Lee, the creator of Spiderman: “With great power comes great responsibility.”

CHAPTER 24

“FIRST, SURVIVAL ; THEN, FUNCTION ; THEN, COSMETICS”

THE STATION FIRE CRIMINAL PROSECUTIONS were not completed until more than three years after the tragedy. Over that period of time, it might be understandable if some people lost full appreciation for the personal toll exacted by the defendants' criminal negligence.

But one group never would. They were the most seriously burned victims of the fire. For those fortunate enough to survive, no part of their “sentence” would be suspended; they would all be lifers.

By mid-morning on February 21, 2003, the day after the fire, the emergency room at the Massachusetts General Hospital had settled into its normal routine, which is to say, normally frenetic. Helicopters no longer clattered onto the hospital's roof, but doctors and nurses scurried about, attending to the fourteen Station fire victims who had passed through the ER's doors over the prior eight hours. About half those patients remained unidentified.

As hospital personnel fielded calls from people looking for missing loved ones, ER staff patiently took down information on each: name, age, height, weight, clothing, distinctive jewelry, tattoos, scars — even shoe size, because many victims were terribly burned about their faces and upper bodies. By midday, all but two female patients had been identified. They were the hospital's “Jane Does.”

Anna and Joe Gruttadauria were awakened three hours after the fire by one of their daughter Pam's co-workers at the Holiday Inn, calling to see if she was all right. They checked Pam's room, only to find her bed empty. She had not come home.

Pam's parents turned on the TV, saw news reports about the fire, then drove to the Crowne Plaza Hotel where Red Cross volunteers were setting up a support center. At 6:30 in the morning, the distraught parents were told there was no “Pam Gruttadauria” on a list of known survivors. They began to call area hospitals, describing Pam as five feet tall, with dark hair. When they spoke with Massachusetts General Hospital, their hopes were dashed. The hospital's two remaining Jane Does were both about five feet,

four inches tall.

By mid-Saturday, the second day after the fire, only one of Mass. General's Jane Does remained nameless. When the Gruttadaurias called the hospital again that day, they were asked for a more detailed description of their daughter. This time, Anna described acne scars on Pam's upper chest and a chipped front tooth. The "unknown woman in room 14" also had a chipped tooth.

Sometimes when people are seriously burned, the massive swelling of their bodies makes height measurement difficult. Aided by Anna Gruttadauria's additional description, MGH staff remeasured their unidentified female patient. Taking into account her body's swelling, the terribly burned woman was closer to five feet. Buoyed by this news, the Gruttadaurias sped to Boston, hopeful that their daughter might still be alive.

Upon arrival at Massachusetts General Hospital, Anna and Joe Gruttadauria were introduced to Dr. Lawrence Park, the hospital's emergency room psychiatrist. He explained to them that the girl in room 14 was very badly burned, and they would not be able to see her face or hands, which were swathed in bandages. But someone would have to try to identify her.

Anna didn't hesitate. Donning sterile gown, gloves, and a mask, she stepped into the room and looked at the patient's terribly swollen feet. Her daughter had one toe that overlapped the one next to it. So did this patient. Pam had red acne scars on her upper chest. As did the poor girl in the bed. And the unconscious burn victim, suspended amid a network of tubes, wires, and monitors, had a single chipped tooth visible above the breathing tube that passed from the respirator into her lungs.

"This is Pam," said Anna.

A mother knows.

Several regional burn centers and general hospitals cared for victims of the Station fire. Rhode Island Hospital's burn unit alone performed more than forty skin-graft surgeries in the two months following the fire. The University of Massachusetts Medical Center, Massachusetts General Hospital, and Shriners Hospital in Boston also cared for critically burned Station fire victims. (This was the first time in the history of the Boston Shriners Hospital that it treated adults, rather than children.) The best hospital care, however, was no guarantee of patient survival, as four succumbed in the days and weeks following the fire. One was Kelly Vieira, the wife of Station stage door bouncer Scott Vieira.

Several fortunate coincidences favored Rhode Island Hospital that fateful night. Three surgeons on its staff had trained at the Army Burn Center in San Antonio, Texas. Their experience would prove invaluable. Also, the Station fire occurred at 11 p.m., right at the hospital's shift change, resulting in twice the normal number of nurses being available to remain and stabilize emergency admissions. Additionally,

because of a renovation then under way at Rhode Island Hospital, new, barely finished space was available to immediately house the influx of patients. A twenty-one-bed burn ICU was created on the spot, along with a thirty-four-bed step-down unit.

Three weeks after the fire, thirty Station survivors remained confined to four hospitals, with twelve of those patients still listed in critical condition. Among them were bodybuilder Joe Kinan, reptile fancier Gina Gauvin, and hotel breakfast manager Pam Gruttadauria. Their struggles for survival would test each patient, their caregivers, and their families to the limit.

Care of critically burned patients is not for the faint of heart. It is a high calling among surgeons, requiring not only technical proficiency, but also an encyclopedic knowledge of human physiology. They must understand the body's need for nutrition as it operates in overdrive to overcome horrendous traumatic insult. They must implicitly understand the precarious balance to be struck while treating the body's massive loss of fluids. They must be constantly vigilant for bacterial or fungal infections that threaten burn victims all too often.

Burn specialists well know that every treatment they administer imposes its own burden on the critically ill patient. Every surgery stresses an already weakened body. Every antibiotic, in large enough doses, can be toxic to kidneys or liver. No treatment is without risk. But treat they must, if the patient is to stand any chance of survival.

And many interventions are painful. There is no escaping the fact that lifesaving treatments for burn victims can themselves be excruciating. Physicians, aides, and therapists must steel themselves to the often painful nature of their treatments, understanding that they are necessary to the paramount objectives of burn care.

As explained by Colleen Ryan, MD, codirector of the Sumner Redstone Burn Center at Massachusetts General Hospital, the three objectives of critical burn care are, in order of priority, "First, survival; then, function; then, cosmetics." In other words, critically ill patients must be saved. Once survival has been reasonably assured, procedures can be undertaken to enhance bodily functions. Finally, once a patient's level of functioning has been maximized, further interventions may be considered to enhance a victim's appearance.

For Pam Gruttadauria, Gina Gauvin, and Joe Kinan, weeks, even months, passed before doctors could worry about anything but their survival. All suffered second-, third-, and fourth-degree burns over more than 50 percent of their bodies. All had leathery eschar encircling torsos or limbs, requiring escharotomies (incising of the burned skin to allow it to split, so that deeper tissues are not compressed by swelling). Still deeper burns required fasciotomies (incising the fascia that divides muscle compartments, to allow swollen muscle tissue to expand). For some, the deepest burns would even necessitate limb amputations.

Critically burned patients are maintained in a chemically induced coma during initial treatment, which may last weeks, or even months. Their respiration supported

by a ventilator, burn victims often “lose” months of their lives, later awakening to a very different reality. If they are lucky.

Skin that has suffered third-degree burn cannot be left in place, lest it become a breeding ground for infection. It must be removed within a few days of injury by cutting, called debridement. Charred skin is cut away, revealing fat, muscle, or even bone, depending upon the depth and location of the burn. In order to prevent fluid loss and infection, the debrided site must be covered with some kind of graft. When patients cannot immediately spare sufficient healthy skin of their own, debrided areas are temporarily covered with cadaver skin or a collagen-based product called “artificial skin.”

Such measures are only stopgaps. Eventually, all debrided areas must be grafted with the patient’s own skin. But how can patients with few unburned areas of their body spare sufficient skin to graft everywhere else? The answer lies in the wonders of split-thickness grafting and the skin’s own regenerative powers.

When Gina Gauvin’s doctors at UMass. Medical Center sought to permanently cover debrided areas of third-degree burn, they took an electric reciprocating blade, called a dermatome, to her few areas of healthy skin. It produced strips of skin graft thick enough to survive if nourished by new blood supply, but thin enough that tissue remaining at the donor sites would later heal, forming new, re-harvestable skin. Each strip of graft material was then passed through a mesher, which produced a latticework pattern in the grafts, allowing it to be stretched to three times its original area. The meshed grafts were then stapled to debrided areas, where it was hoped they would develop their own vascular supply and fill in the interstices among their latticework — without infection causing the grafts to slough off.

The process was repeated, time and again, for each of the critically ill Station fire victims. Temporary graft material was removed, the patient’s own skin harvested, meshed, and stapled in place over previously debrided areas. Once a donor site healed sufficiently, it was used for another split-thickness graft — and so on, until all debrided areas were eventually covered, and the mesh grafts consolidated into solid skin, of sorts. It would lack hair, nerve endings, and sweat glands, but would have to suffice for the body’s protective envelope.

Patients underwent daily dressing changes and spray debridement of dead skin — a process so painful that it caused even deeply sedated patients to grimace. All fought off infections over the weeks and months — some successfully, some not.

On Gina Gauvin’s admission to UMass. Medical Center, doctors gave her less than a 50 percent chance of survival. Four days after the fire, they removed the dead skin on her scalp, back, arms, hands, and fingers, replacing it with artificial skin or temporary cadaver graft. Throughout the rest of February, March, and April, Gina underwent skin grafting and other surgical procedures, about twice a week. Her doctors had no choice but to remove hopelessly burned structures — most of her left

ear, her right pinky, and two thirds of the other fingers on her right hand. Fortunately, Gina, whose hobby was painting, was left-handed.

By the last week of March, however, Gina's luck was running low. A combined fungal and bacterial infection had taken over her left hand, threatening her overall survival. If the infection spread from that hand to the rest of her body, she would die.

It's said in the King James Bible, "Wherefore, if thy hand or thy foot offend thee, cut them off." Gauvin's surgeon, Dr. Janice Lalikos, knew that her patient was in exactly that terrible situation; not through temptation, as contemplated by the scripture, but due to infection. The doctor would have preferred to consult with a conscious Gina (she was still heavily sedated), but after obtaining consent from her sister, Dr. Lalikos reluctantly amputated the artist's dominant left hand.

Joe Kinan, the amateur body-builder and formal-wear salesman from Canton, Massachusetts, was among the most seriously injured Station fire victims at Massachusetts General Hospital. Initially treated across the street at the Shriners Hospital, he was transferred to Mass. General once its burn unit, which had been full to capacity, could accommodate him. Kinan remained in critical condition longer than any other Station fire patient, grievously burned on his head, upper body, and hands. His ears, one eye, his nose, and lips were gone, burned off in the inferno. Doctors eventually grafted skin over where his eye had been, believing there was no point in even attempting prosthesis. His sight in the remaining eye was only partial. Doctors had to amputate most of his fingers, leaving him with opposable pincer stubs on one hand only. Amazingly, once Kinan emerged from months in a medically induced coma, he embraced life with a positive attitude that stunned his caregivers, offering encouragement to other patients in the burn ward. Several recalled passing Kinan on a gurney in the hospital and thinking, "My God, Joe's so much worse off than me, and yet he's asking *me* how I'm doing!"

Sometimes, when in the presence of angels, one can only marvel.

During the two and a half months that Pam Gruttadauria was at Massachusetts General Hospital, her parents visited her every day. They would speak to her, hopeful that she could hear their voices through her deep sedation. Sometimes they thought that she reacted to spoken words. Anna and Joe Gruttadauria clung to that belief in the face of Pam's devastating injuries. Their daughter had no hands. Or eyelids. Or nose. The burns to 100 percent of her face had destroyed not just the skin, but also the underlying muscles that provide shape and expression. Would she want to live that way? Her parents could not help but wonder.

But Joe and Anna also believed that God had saved Pam for a reason. They had to believe it, in order to make some sense of her suffering. Even if Pam survived,

though, she would face years of painful treatments and lifetime disability. The Gruttadaurias knew it was in God's hands. As it had always been.

In late April, some ten weeks after the fire, Pam's condition began to decline. Infection was overwhelming her organs. Her blood pressure could not be maintained. Pam's kidneys and liver were failing. "I think Pam's tired," Joe Gruttadauria told his wife. "She's fought a good battle, but she's tired." When Pam's doctors told the Gruttadaurias that nothing more could be done for their daughter, Joe and Anna agreed to discontinue her respirator and kidney machine. They were comforted by the doctors' assurances that Pam would feel no pain.

Anna and Joe remained at their daughter's bedside while she continued to breathe shallowly, disconnected from the respirator. After about three hours, Pam peacefully yielded up her spirit. That night, Pam Gruttadauria, age thirty-three, became the Station fire's hundredth, and final, fatality.

It would be years before many of the most seriously burned Station fire victims could concern themselves with the third priority of burn care, cosmetic appearance. For them, surgeries to release function-impairing scar contractures would long take precedence over aesthetics.

For others who may have played a role in the Station tragedy, however, priorities were not so constrained.

On May 24, 2006, Jack Russell appeared on an episode of TV's entertainment tabloid *Extra*. The "news hook" for the story was Russell's showing off the results of his recent face-lift:

Voiceover: "He's the lead singer for the '80s metal band Great White, but for Jack Russell, the past three years have not been great. His life unraveled when a Rhode Island nightclub caught fire during a concert and . . . one hundred lives were lost. . . ."

Russell: "My drinking really, really started getting really bad after that."

Voiceover: "The forty-five-year-old checked into rehab. Now, he's nine months clean and sober and ready for a fresh start."

Russell: "I'm feeling so good inside. I look in the mirror and it just doesn't represent how I feel inside, so I, you know, I thought it was time for a change."

Voiceover: "That change? A face-lift."

[Graphic: "\$30,000-\$45,000"] . . .

Voiceover: "Four weeks later, check out the results! Before and after. Jack got the subtle, not-overdone look he wanted. His eyes, more refreshed. Jowls gone, and no more turkey neck!"

Russell: "Most of my friends go, 'Have you lost weight?' and I'm like, 'Well, yeah, about ten pounds in the face,' you know?" [laughs]

Three thousand miles to the east, Joe Kinan began his day. It was difficult for him to line up his new prosthetic ears with the magnets that had been implanted under his grafted skin to hold them in place. But he managed.

After all, as the ex-formal-wear salesman's girlfriend observed, "This just happens to be the suit he is wearing right now."

CHAPTER 25

RISKY BUSINESS

IN MOST STATES, THE PLAINTIFFS' TRIAL BAR is home to a handful of respected practitioners with extensive trial experience, rigorous analytical skills, and absolutely titanic egos. Rhode Island is no exception. As often as not, these individuals have practiced together in the past and, after going their separate ways, spend the rest of their professional lives trying to prove that they are far and away superior to their former colleagues. Some do this by campaigning for every available office within the organized bar; others, by seeking as much publicity for their cases as possible; and others, by earning a reputation as the meanest dog on the block. Rhode Island has all three types (plus a few hybrids). And it was inevitable that they would be drawn like moths to the Station fire's flames.

The victims of the Station fire were, for the most part, blue-collar, biker-bar types; many were only marginally employed, and many were single parents. Substantial savings, or even first-rate health insurance, was the exception, rather than the norm, for this group. Loss or incapacity of a breadwinner meant devastation for many a Station victim's household.

Whatever may have been their station before The Station, however, all injured persons had in common that they were blameless victims of negligence and greed on the part of multiple perpetrators. The fire victims were dearly in need, and deserving of compensation, and the civil justice system was their only chance for recompense. The response of Rhode Island's plaintiffs' bar to this pressing need displayed both the best and worst of their profession.

In the United States (in contrast to the other countries whose legal systems derive, like ours, from English jurisprudence), attorneys are allowed to represent plaintiffs on a "contingent fee" basis — in other words, they are not paid by the hour, but as a percentage (in most cases, a third) of what they recover for their clients. If they lose, they are paid nothing for their years of work. Riskier still, contingent-fee attorneys customarily advance all expenses of the litigation, which, in a case like the Station fire, can run into the millions.

Originally disfavored by courts and legal ethicists, contingent fees are now legal and ethical in all states, because they provide a "key to the courthouse" for persons who could never afford to pay hourly attorneys' fees. A logical outgrowth of American entrepreneurial spirit and disdain for elitism, the "American Rule" not only allows contingent fee litigation, but eschews feeshifting to the losing party (in the UK

and other Commonwealth countries, the losing party in civil litigation must pay the *other* side's attorney's fees, in addition to his own — a risk that simply cannot be borne by many private individuals). The result in the United States is that grievously injured persons, who could hardly afford hourly attorneys' fees, much less their adversaries' legal fees, can have their day in court if they find an attorney willing to champion their cause.

For generations, American plaintiffs' attorneys stayed afloat on a mix of difficult cases and straightforward personal injury actions — auto accidents, slip-and-falls, and the like. Reputations were earned, and new cases garnered, the hard way, through trial results over many years. Lawyers' advertising was strictly limited by state ethical rules. Then, in 1977, the competitive landscape changed forever. The United States Supreme Court, in *Bates v. State Bar of Arizona*, invalidated state restrictions on lawyers' advertising, declaring that such ads were protected commercial speech within the ambit of the First Amendment. And we have all been the poorer since.

The Supreme Court, in its 5–4 *Bates* decision, considered, but dismissed, arguments that unfettered attorney advertising would tarnish the profession or be inherently misleading (to the extent that ads suggest superior results if one hires a particular advertiser). If only the high court could have seen today's ads, perhaps its majority would have sided with dissenting justices Powell and Stewart, who predicted that the decision would threaten the character of what had been a “learned profession.” What no one could have predicted, however, is how attorney advertising would, by its debasement of the profession, taint jury pools against plaintiffs and fuel the insurance industry's legislative efforts to limit victims' access to the courts. The irony of lawyer advertising is that, while insurers may publicly cluck over it, they well know (and adore) that, because many jurors view such ads with disdain, it lessens the likelihood, and amount, of plaintiffs' verdicts in all cases — a boon for defendants.

Insomniacs and stay-at-homes can now kick back in front of their TVs at any hour of the day or night and see actors portraying insurance adjusters becoming apoplectic upon learning that the firm of Fisher, Cuttbaite & Troll is “on the case.” One punch of the remote, and viewers can watch crash-test dummies endorsing another personal injury attorney. Yet a third channel features a lawyer posing in front of a cheesy baseball park background. “Hire the Heavy Hitter,” he urges, with no apparent embarrassment. At the other end of the dial, the actor who portrayed super-agent Napoleon Solo in TV's *The Man from U.N.C.L.E.* sternly instructs viewers to “tell the insurance company YOU . . . MEAN . . . BUSINESS.”

Thus, the awe and majesty of the law, circa 2012.

An advertising race to the bottom followed on the heels of the *Bates* decision, run by lawyers who learned fast that unabashed hucksterism could divert many of the easily settled personal injury cases to them. As a result, in the decades since 1977 the bread-and-butter personal injury cases have shifted from their prior distribution across

the plaintiffs' bar (where they enabled attorneys to take on other, riskier cases), to heavy-advertising settlement attorneys (not to be confused with actual trial lawyers) who blanket the airwaves with "Have a crash? I'll get you cash!" appeals.

At the same time that "advertising attorneys" were scooping more and more simple cases, developments in the substantive law of torts were increasing the complexity and expense of the more difficult ones. These changes tended to shift the economic burden of catastrophic injuries to defendants like sellers of defective products, who public policy suggests should bear such burdens. However, developing and proving legal theories in such cases is no simple matter.

An example of this evolution was the expansion of *strict liability* for defective products. Under this legal doctrine, the manufacturer or seller of a product that is proven to be defective (by way of design, manufacture, or even inadequate warnings) may be held liable for injuries caused by the product, without showing that the manufacturer was negligent. In this way, the externalities of defective products get "internalized" into the products' cost, thereby providing a strong economic incentive for businesses to make safer products. Proving a complex product liability case, however, can be an enormously expensive and risky endeavor. It is generally not the province of the advertisers.

By the time of the Station fire, the plaintiffs' bar in Rhode Island had undergone the same stratification seen in all other states. There existed, on the one hand, a core of true plaintiffs' trial lawyers willing and able to take on complex product and medical liability cases on a contingent-fee basis — and, on the other, a very different, heavy-advertising group of personal injury lawyers for whom *getting the case* was the Holy Grail — even if it meant later referring it to an actual trial lawyer for a piece of the fee.

Many advertising "personal injury attorneys" are either referral networks or settlement mills. The referral networks enter contracts with attorneys to advertise for them, fronting a name or toll-free number for practitioners embarrassed by first-person hucksterism. The settlement mills essentially troll for garden-variety accident cases that can be easily settled (often at a discount) with insurance adjusters. Any cases requiring actual litigation (or, God forbid, trial) are referred to other law firms for part of their contingent fee.

Just twelve days after the fire, one attorney of the advertising ilk rushed to publicly file suit on behalf of a few fire victims — against those defendants whose brief perusal of newspaper articles would suggest were culpable — probably figuring that reports of the filings would garner yet more victim/clients. That lawsuit named the town of West Warwick, Fire Marshal Denis Larocque's employer, as its first defendant. Good for starters. However, its draftsman neglected to comply with a basic statutory requirement in Rhode Island that the town first be given forty days' Notice of Presentment of each victim's claim before filing suit.

Another case, filed by a heavy advertiser just six days later on behalf of a single victim's family, failed to sue *any* product manufacturers (just the local foam distributor, American Foam), one of the few groups of potentially culpable, deep-pocket defendants. Yet a third law firm, savvy in Internet marketing, registered the domain name "www.stationfire.com" before the club's embers had cooled. When exposed by the press two days later, it shut down its client-trolling website.

By contrast, the Rhode Island Trial Lawyers Association (RITLA), to which I belonged, urged restraint and deliberation by its members, rather than a headlong rush to the courthouse with hastily drafted pleadings. RITLA members, for the most part, well understood that a serious effort to hold persons financially responsible for the Station tragedy would be an enormously complex and protracted undertaking. It would require financial and legal resources beyond the capabilities of any single attorney or firm. And whoever represented the plaintiffs would have to somehow overcome one central, inescapable fact: *the most obviously culpable defendants — the band and club owners — had little or no money.* They were, in attorney parlance, "judgment-proof."

If the fire's victims were to be compensated at all for their terrible injuries, it would take an enormous effort by their attorneys to successfully press cutting-edge theories of liability against deeper-pocketed, but more peripherally liable, defendants. It would not be the stuff of late-night TV ads. Rather, it would be expensive, all-consuming, and bet-the-firm risky for anyone undertaking it seriously.

In order to establish the liability of defendants other than the band and club owners, evidence would have to be marshaled concerning others' contributions to the fire's intensity and inescapability. The club's wreckage would need to be examined, legally relevant artifacts gathered, and details of the building's design and construction established with certainty. Unlike modern buildings such as Las Vegas's MGM Grand Hotel or San Juan's Dupont Plaza Hotel, both of which were scenes of tragic fires, The Station was a rundown structure, which had been modified by successive tenants, on the cheap, over decades. There were no architectural plans, no materials schedules, and no reliable record, beyond amateur photographs and video, of its interior. "Reconstructing" The Station from on-site measurements, archival photographs, and fire artifacts would take a team of experts months, cost hundreds of thousands of dollars — and offer no guarantee that a single legally useful fact would be gleaned.

Eight law firms, including my own, teamed up to form a Plaintiffs' Steering Committee (PSC), pooling money, expertise, and manpower, to responsibly investigate possible theories of liability before filing a single lawsuit. Appointed by the state Superior Court, the PSC, assisted by a team of forensic experts, gathered over seven hundred artifacts at the fire site, storing them in a specially modified evidence warehouse. (One of the most expensive warehouse features was a complete fire sprinkler system. Ironically, charred evidence from the tragedy enjoyed more

protection from fire than did any Station patron.) Likely defendants in the civil litigation, such as foam manufacturers, agreed to jointly control and pay for the evidence warehouse, access to which would remain under court supervision for the duration of the litigation.

Over-inclusiveness was the watchword for evidence-gathering by our experts. It is very difficult to ascertain, while artifacts are being gathered, which, if any, may prove useful in later legal proceedings. Usually, only a few are important; however, it's nearly impossible to tell which ones, until years into the case. Because the Station site had already been picked over by state and federal investigators, as well as by Professor Gould's Forensic Archaeology Recovery team, there was no guarantee that *anything* useful would come of the steering committee's extensive (and expensive) evidence gathering. But, as with all other aspects of the litigation, we were "in for a penny, in for a pound." No responsible attorney could skip a step in due diligence. The stakes were simply too high, and the penalty for an omission potentially ruinous.

It was clear from the outset that the obviously culpable defendants would have insufficient assets to even begin compensating victims in one hundred death cases and hundreds of personal injury cases arising from the fire. Thus, the pressure on plaintiffs' counsel to identify all other possible defendants was enormous. Moreover, the task had to be accomplished in less than three years — because the statute of limitations would expire three years from the date of the fire. Persons or companies not sued before then could *never* be sued, even if it were later discovered that they bore some responsibility for the tragedy. There are no do-overs when it comes to the statute of limitations (SOL). Miss the SOL, and your client is *truly* S.O.L.

Many laymen would come to criticize the large number of defendants named in our final pleadings; however, few of those critics appreciated our personal peril as attorneys handling this catastrophic case if an important potential defendant were *not* sued before the statute of limitations expired. In short, *we would* get sued. The attorneys on our steering committee carried between \$1 million and \$10 million of malpractice insurance. Given the magnitude of the damages in the Station fire, the combined malpractice insurance of all eight member firms would have been insufficient to protect each of us from personal financial ruin if a viable defendant were not sued before the statute ran. For this reason, the years immediately following the fire were a time of extreme urgency to identify all possible defendants.

At least, my colleagues and I on the PSC were feeling the urgency. Combined, we represented over 90 percent of the fire victims and their families. The remaining plaintiffs were represented by attorneys who chose not to contribute to the work, and massive expense, that the steering committee was putting into the case. By the time the litigation concluded, seven years after the fire, members of the PSC would invest almost \$2 million in evidence gathering, evidence preservation, and expert fees — with no assurance of its eventual repayment. This was on top of tens of thousands of

attorney and paralegal hours, in state, federal, probate, and bankruptcy proceedings throughout the region and country.

The steering committee lawyers came to refer to their nonparticipating colleagues as “the Free Riders.” Beyond their hastily filed (and woefully defective) initial complaints, the Free Riders filed few, if any, substantive pleadings in the ensuing years of litigation. Instead, they filed “adoptions” of every motion and legal memorandum filed by us. (An adoption is the legal equivalent of saying, “What he said.”) In at least two comical instances, the same Free Rider filed adoptions of steering committee legal memoranda several days *before* the latter were filed in court — either a ringing vote of confidence in our work, or a means to an earlier tee-time.

As a result of the PSC’s deliberate approach, we did not file suit against any defendant until seventeen months after the fire. Our first “master complaint,” filed in state Superior Court, named forty-six separate defendants, including not only the club owners and Great White, but polyurethane foam manufacturers, concert promoters, and insurance companies who had inspected the club (and missed the flammable foam) in years past.

Within all states there are both state courts and federal courts. In some cases, their jurisdictions overlap, and a plaintiff may choose to file suit in either state or federal court. In Rhode Island, as in many states, the state court system is generally viewed as a more favorable forum for plaintiffs than is the federal court system. Not surprisingly, then, all plaintiffs in the Station fire initially filed their suits in state court.

However, the plaintiffs’ choice of forum is not always the last word. A legal device called “removal,” designed to prevent home-field favoritism against defendants who reside in other states, allows an out-of-state defendant to remove his case from the state court and put it in the federal court, but only if the federal court would have had jurisdiction over the controversy in the first place.

Ordinarily, a case like the Station fire would not qualify for federal court jurisdiction, because several of the defendants, and most of the plaintiffs, were Rhode Island citizens; hence, complete “diversity of citizenship” (the most common basis for federal jurisdiction) would be lacking. However, a coincidence of history, and lawmaking, would link the tragic events of 9/11 with the Station fire, and determine with finality what court would decide the fire victims’ claims.

In the wake of the terrorist attacks of September 11, 2001, a Republican-controlled U.S. Congress dearly wanted to keep civil litigation arising from mass catastrophes out of state courts, which business-interest lobbyists saw as too plaintiff friendly. Instead, it wanted to steer such cases into the federal system, which Congress regarded as more judicially conservative in matters of civil liability. So, on November 2, 2002, it enacted the Multiparty, Multiforum Trial Jurisdiction Act of 2002, which conferred federal court jurisdiction on cases arising from a single accident in which

“at least 75 natural persons have died” (regardless of whether the parties have complete diversity of citizenship). The law became effective on January 31, 2003, just twenty-one days before the Station fire. It would see its first application in the civil suits arising from the fire.

Two Station fire defendants, the town of West Warwick and Anheuser-Busch Inc., pounced on the new jurisdictional law, using it as a basis to remove all fire cases from Rhode Island state court to federal court, where random selection resulted in assignment of Senior Judge Ronald L. Lagueux to the consolidated Station fire cases. Judge Lagueux was seventy-two years old at the time, and a thirty-six-year veteran of both the state and federal judicial systems. A flinty jurist known for striking terror into the hearts of young lawyers appearing before him, Lagueux had a well-earned reputation as the most conservative judge on any bench in Rhode Island. It was widely believed that he would subject novel theories of liability against peripheral defendants to rigorous scrutiny, and cast several aside as a result of pretrial motions to dismiss, or for summary judgment.

The tone was set early on. Judge Lagueux invited counsel in all the consolidated cases to a conference held on October 26, 2004, in the massive, wood-paneled Jury Assembly Room of the federal courthouse in Providence. There, he gave a preview of how he saw the cases playing out. Plaintiffs’ counsel were as dejected as defense counsel were buoyed when they heard Judge Lagueux announce, “Discovery is not going forward in this case until I dispose of [the many motions to dismiss]. You’ll have time to work this out. *Maybe some of you won’t be in the case.*”

“Hopefully, not *too* many of us,” mused the sixty or so defense attorneys present. Their cumulative billing rate in the room was about two hundred dollars.

Per minute.

The defense attorney for Clear Channel Broadcasting was actually heard by the court stenographer to quip, “I like the way you’re working so far.”

It appeared that, by a combination of removal to federal court under the new jurisdictional statute, and simple luck of the judicial draw, the Station fire victims, already unfortunate, had been dealt another weak, and possibly losing, hand.

Even without the case’s removal to federal court, we on the PSC were having a hard enough time. Plaintiffs’ attorneys are natural competitors for the most lucrative cases. We’re used to working alone, making all the strategic decisions on a case, pouring all necessary resources into it and either reaping its reward (and its attendant publicity), or suffering its defeat, alone. As a result, plaintiffs’ lawyers are constitutionally ill-suited to litigation by committee.

There are good reasons why farmers don’t use thoroughbred racehorses for wagon teams. High-strung, pricy, and temperamental, they’d all want to pull their own way and have others clean up after them. It’s the same way with plaintiffs’ attorneys trying to work together on the same case — only with more ego and less horse sense.

At initial hearings before state judges in the Station case, one of our group would routinely arrive early, so that he could grab the “first chair” at counsel table and give the impression he was sole lead counsel. Others from the committee would rush to feed sound bites to reporters after each proceeding.

On May 27, 2003, a state Superior Court judge, Alice Gibney, appointed two attorneys as “Co-Chairs of the Plaintiffs’ Steering Committee.” She appointed a third attorney “Vice-Chair.” Among the three firms, 179 fire victims were represented. After weeks of counterproductive competition between the two co-chairs, they struck an agreement that would prove critical to the successful functioning of the committee over the next seven years: both would jointly represent each other’s clients, dividing all contingent fees evenly between them; both would eschew public comment on the case for its duration; and neither would seek appointment to any representative position regarding the plaintiffs’ cases without permission of the other. For the most part, the agreement would be honored.

Struggle for control of the litigation was not unique to the plaintiffs’ side of the aisle. Hourly billing defense firms jockeyed for the highest profile and, hence, the right to ring up stratospheric fees in what would undoubtedly be protracted litigation (at least if they had anything to say about it). Their posturing sometimes bordered on the comical. At the first federal court conference in the consolidated cases, one attorney took the microphone and blustered, “I also represent Foamex and General Foam Corporation. I’m slightly different than everyone else here in that I have had twenty-seven years of experience in these mass fire torts, and I would pick up on what the gentleman to my left has to say . . .”

Major corporate defendants had in-house counsel, national litigation counsel, and local counsel representing them simultaneously. The case was seen by some as a defense gravy-train, with firms racking up billable hours by sending associates to observe court proceedings in which their clients had only a theoretical interest, at best.

Such practices crystallized an inherent tension between contingent-fee plaintiffs’ lawyers and hourly billing defense counsel: plaintiffs’ attorneys want to move cases to completion because they do not get paid without a resolution in their clients’ favor; defense firms, particularly those representing huge defendants whom they may never again represent, have an institutional (economic) bias toward delay and obstruction. Justice delayed may, as the saying goes, be justice denied, but in defense circles it means billable hours. And the Station civil litigation would set new records for those.

In addition to the difference between how defense lawyers and plaintiffs’ lawyers get paid (if, indeed, the latter ever do), there is, quite often, a difference in how the groups view themselves. The fact that defense lawyers get paid, win or lose, sometimes gives rise to an attitude among them that attorneys representing insurance or corporate giants deserve more respect than their contingent-fee brethren. (Shameless advertising by “personal injury attorneys” does little to dispel this notion.)

But such stratification of the bar based on client set is not always reality based.

True, successful plaintiffs' attorneys are not usually Harvard or Yale educated. Someone named Phelps Worthington III might not feel very comfortable practicing plaintiffs' product or medical liability law. But what the plaintiffs' bar may lack in breeding, it makes up for, at its highest levels, in intellectual rigor and a risk-taking hunger born of ethnicity and inferiority complexes — often a potent combination.

The expiration of the statute of limitations in February 2006 was crunch time for plaintiffs' counsel in the Station cases. Inside the evidence warehouse, their experts had literally reconstructed the entire west end of the Station nightclub from materials salvaged from the fire scene. They had tested foam remnants, studied hundreds of photographs, and analyzed the Butler video, frame by frame. After completing document discovery and depositions of eighty-five witnesses in an attempt to identify potential additional defendants, the PSC finalized its Third Amended Master Complaint — the last chance to name any defendant whose conduct might have contributed to the deaths and injuries in the fire. That document, 224 pages in length, set forth 133 legal bases for claims by 467 plaintiffs (including relatives of the injured and killed) against some 87 individual and corporate defendants. The Third Amended Master Complaint — a culmination of three years' work by the eight law firms constituting the Plaintiffs' Steering Committee — would thereafter become the "Bible" of the litigation.

It was immediately adopted by the Free Riders.

CHAPTER 26

MAKING THE TOUGH CASES

“WHY DON’T YOU SUE the Dixie Cup manufacturer? I’ll bet there were some in the ladies’ room, and they burned, too,” suggested one denizen of the radio call-in shows. These and other criticisms were leveled at the plaintiffs’ attorneys as we struggled to identify all possible defendants before the statute of limitations expired. In so doing, we cast a wider net than some lay observers would have preferred; however, when the dust finally settled, our inclusive approach would prove to have well served the victims of the Station fire.

It is a bedrock concept of tort law that more than one defendant may be liable for a plaintiff’s injuries. A defendant needn’t have been the only “tortfeasor”; indeed, he can be one of several “joint tortfeasors,” if his negligence had combined with that of others to bring about the plaintiff’s injuries.

And, in most jurisdictions, the negligence of any one tortfeasor need not even have been the *greatest* contributor to the plaintiff’s injuries for that defendant to be liable. It is enough that his negligence was a foreseeable, or “proximate,” cause of the plaintiff’s injuries, along with the negligence of others. If a joint tortfeasor is found to have been as little as 1 percent responsible for the plaintiff’s injuries, then the plaintiff can recover his entire damages against that defendant. That defendant, then, has a claim for what is called “contribution” against other defendants who he feels were also responsible. A claim for contribution effectively says, “If the court finds that I’m liable to the plaintiff, then you’re liable to me, because you were negligent, too.” This is called “joint and several liability,” and it is the cornerstone of mass tort jurisprudence.

What joint and several liability means, in practicality, is that if a plaintiff can prove that a deep-pocketed defendant was even *partially* responsible for catastrophic injuries, he may collect *all* his damages from that defendant, and it is then up to that defendant to seek contribution from the other (perhaps less well-heeled) defendants. The public policy behind this result is straightforward: *if any person is to bear the risk that one of several joint tortfeasors is judgment-proof (because it has no assets), that person should be a negligent defendant, rather than a blameless plaintiff.*

There could be no fairer application of the doctrine than in the case of the Station fire. Whatever one might think of joint and several liability, no patrons of The Station deserved their fate on February 20, 2003. If anyone were to bear the risk that the band or club was judgment-proof, it should be other culpable defendants.

But culpability under cutting-edge tort law is not a simple thing, especially when it comes to products liability. When is a product defective? Did it bear inadequate warnings? What uses of it are sufficiently foreseeable to subject its manufacturer to liability? What about intervening criminal acts (like setting off unlicensed pyrotechnics)? Might they not break the chain of causation?

These and myriad other questions would be addressed as we engaged over the years with our defense counterparts in the stately minuet of pleadings, responses, motions to dismiss, and motions for summary judgment. Legal theories would be advanced, and tested. Some would fall by the wayside. Others would give defendants enough pause to decide that settlement just might be the better part of valor.

Of the eighty-seven defendants named in the PSC's Third Amended Master Complaint, several were obvious, like the Derderians and the band. Others were less so.

One of the less obvious defendant groups consisted of WPRI videographer Brian Butler and his employer corporation. The theory of liability against Butler was that, according to eyewitnesses, he began filming while standing a few rows back from the stage and then, when the fire began, removed himself to a position of relative safety near the door where he held his ground for a critical eight to ten seconds, impeding others' exit while he "got the shot." Erin Pucino claimed to be an eyewitness to Butler's conduct. According to her, Butler stood near the corridor to the main door, looking into his camera and shooting toward the stage while she and others struggled to get around him. Another patron, Frederick Vallente, separately told police that "people were screaming at Brian Butler to get out of the way because he was impeding their exit while he filmed."

Liability of Butler's employer corporation was based upon the legal doctrine of *respondeat superior* (literally, "Let the master answer"). The doctrine provides that a master is "vicariously responsible" for the negligence of his servant during activities performed within the scope of his employment. This rule of vicarious liability would be applied to several other employer-defendants who acted through individual employees to contribute to the tragedy of the fire.

Butler could not have disagreed more strongly with Pucino's and Vallente's allegations. According to him, "after I turned from the stage, I did not look into the camera view finder again." Clearly, the truth did not just lie "somewhere in between" Butler's account and those of Pucino and Vallente. Someone was, to put it most charitably, "mistaken."

Another deep-pocketed group of defendants found itself in the case through the acts or omissions of an unlikely employee. Radio station WHJY had promoted the Great White concert at The Station. Its employee, Michael Gonsalves, aka "Dr. Metal," acted as master of ceremonies, standing onstage as Dan Biechele set up Great White's pyrotechnics. Our complaint alleged that Gonsalves could and should have noticed

that the illegal pyro was being set up, and that he sufficiently controlled the stage at the time to stop the concert before introducing Great White. We also knew that Gonsalves's weekly salary as a radio DJ was directly paid by media giant Clear Channel Communications, the parent company of WHJY, making Clear Channel his actual employer.

American Foam Corporation, the Johnston, Rhode Island, corporation that employed club neighbor Barry Warner and sold the Derderians the polyurethane foam, had precious little wiggle-room as a defendant. It knowingly sold highly flammable packing foam as "sound foam" to be installed on the walls of a place of public assembly. For reasons unknown, Warner himself alleged, in an attempted "anonymous" fax to the police after the fire, that American Foam's president had fostered an atmosphere in which foam's fire risks were downplayed to its customers. Clearly, Warner had more than a little animus toward his ex-employer. Under the circumstances, Clarence Darrow would have had a tough time defending American Foam.

Legal theories against manufacturers of polyurethane foam who sold it to American Foam were tougher to marshal. Plaintiffs alleged that the foam was defective because it was not flame retardant, and because the "solid gasoline" described in Jeff Derderian's earlier news piece bore inadequate warnings. We also floated a novel theory of "product stewardship" whereby manufacturers of extremely hazardous substances should undertake to ascertain the downstream uses to which their products will be put — and exercise some control over their eventual use. Polyurethane foam's history of contribution to the French nightclub fire, the fire on the *Sigmund and the Sea Monsters* set, and the Dupont Plaza fire, prior to the Station fire, was cited as a reason the manufacturers should have known, and done, much more.

The PU foam manufacturing defendants would have none of it. Their position was that whichever manufacturer sold the foam to American Foam (and no one was admitting to it) did so for ultimate "fabrication" (cutting into egg-crate-convoluted sheets) without knowing its intended end use. Also, it was sold in minivan-size foam blocks called "buns" to be cut up by American Foam, and could not, therefore, have easily borne a flammability warning on the end product.

And, anyway, try proving who actually made it. It was essentially a generic product — the "Ford Taurus" of foam, according to Barry Warner — and most of it burned up in the fire. It probably bore no unique chemical signature to distinguish one manufacturer from another. Therefore, we would not be able to prove "product identification," critical to any product liability claim — that is, that any given defendant actually manufactured the unlabeled, generic PU foam that American Foam cut into convoluted sheets and sold to The Station.

Moreover, the possible PU foam manufacturers contended that no makers could have anticipated that their product would be exposed to fireworks. (That a substance

known to suppress sound might well be exposed to *any* ignition source, like a lit cigarette, in a nightclub was apparently not important to the PU manufacturers.) They'd successfully avoided regulation and liability enough times in the past. The industry had agreed not to mislabel its products as "self-extinguishing" or "non-burning" anymore, since the 1974 FTC consent order, but it was still shipping millions of tons of non-fire-retardant foam (visually indistinguishable from the fire-retardant variety) without attempting to educate ultimate end users about its incendiary propensities. They were confident they'd dodge the bullet once again.

The landlord for the Station building, Triton Realty Limited Partnership, presented its own problems as a defendant. The Derderians' lease provided that the landlord had no responsibility whatsoever for maintaining the building or keeping it in compliance with building and fire codes. It did, however, warrant to the Derderians that, at the time they took possession of the building in 2000, it met all applicable codes — which would have been impossible with Howard Julian's foam blocks installed on the walls of the drummer's alcove. No problem, countered Triton, through its counsel. That warranty ran *only to the Derderians*. For that reason, it gave rise to no duty to The Station's patrons. And, anyway, it was expressly limited to the value of the real estate — a dubious number, in the case of 211 Cowesett Avenue. Raymond Villanova's post-fire transfer of Triton Realty's assets to other corporations may have looked guilty enough, but there was no certainty that the allegedly fraudulent transfers would be admissible as evidence in any trial against Triton.

The doctrine of *respondeat superior* would also find application in the cases against the town of West Warwick and the state of Rhode Island. Fire Marshal Denis Larocque, a salaried member of the West Warwick Fire Department, was unquestionably a town employee; however, he also proudly carried a card identifying himself as a duly appointed "Deputy State Fire Marshal." A single person can be the simultaneous agent/servant of two masters under the law, and in this case Larocque's faulty inspections and fanciful capacity calculations were undertaken in the service of both the town *and* the state.

Unfortunately, the same Rhode Island statute conferring personal immunity upon the fire marshal for acts and omissions in the "good faith performance of his duties" also would, if applicable, have immunized both of his "masters" from vicarious liability for Larocque's negligence. We would have to somehow prove that Larocque's failure to notice the flammable foam and his increasing the club's permitted capacity by implausibly calling the whole place "standing room" were in bad faith — a pretty tall order.

By contrast, the band and the Derderians were slam-dunks, as far as liability was concerned. Great White set off the pyro, and the club owners condoned it — if not specifically that night, then for all the pyro bands that appeared there. Unfortunately, the band only had a million dollars of insurance, and Jack Russell, having emerged

from personal bankruptcy only six months before the fire, was not exactly in a position to supplement it. The Derderians, with only a million dollars of insurance themselves, filed for personal bankruptcy after the fire. End of story for the most clearly culpable civil defendants. Not a penny of their personal money would ever flow to the families of those whom their negligence had condemned to death or injury.

The law of principal and agent can work in ways that the general public may not immediately grasp. When the Third Amended Master Complaint named Anheuser-Busch and its Rhode Island distributor, McLaughlin & Moran Inc., as defendants, the bloggers scoffed. “The beer company?” “The *beer* company?” However, it was not quite the stretch they imagined.

The Budweiser companies ran a promotion of the Great White concert on radio station WHJY, handing out bottles of “born-on” dated beer that night and providing banners proclaiming, “Party with HJY and Budweiser” and “The Station Presents Great White.” A cursory inquiry by Budweiser concerning the band it was promoting would have revealed that Great White had been setting off illegal pyrotechnics in small clubs throughout the country well before it arrived in West Warwick. Our master complaint alleged that the beer companies had a duty of at least minimal inquiry before attaching the Budweiser name to what was, essentially, a traveling criminal enterprise.

What’s more, the Anheuser-Busch family of companies was not exactly a stranger to the hazards of indoor pyrotechnics. Because of their ownership of the Busch Gardens and SeaWorld theme parks, senior officials of Anheuser-Busch Companies and Busch Entertainment Corporation served as members and alternates on the National Fire Protection Association’s Technical Committee on Special Effects, the drafter of NFPA Standard 1126, which is the national safety standard for the use of pyrotechnics “before a proximate audience.” That standard forbade just about every aspect of Great White’s pyro show at The Station.

When you’re in the business of selling an intoxicant, you’re in the business of risk management. Because the consumption of beer necessarily involves some risk, the only question is what degree of risk is acceptable as a matter of public policy. Beer-slowed reaction times impair driving. They also affect how quickly a crowd responds to perceived danger. Was it asking too much that this purveyor of intoxicants, whose subsidiaries helped set the NFPA standard for indoor pyro use, look at the pyro practices of the band it was promoting with its trusted name, banners, and intoxicant giveaways? Budweiser had only to visit Great White’s website in the weeks before the fire to see pictures of the band shooting pyro indoors.

But that was not all. Our investigation revealed that on the night of the fire, Mike “Dr. Metal” Gonsalves’s “talent fee” — a check made out to him personally — was written by Budweiser distributor McLaughlin & Moran. Gonsalves was, therefore, probably the agent not only of WHJY that night, but also of the beer distributor, as he

stood before the Station crowd exhorting them to “drink all the Budweiser in the place” — while Dan Biechele set up illegal pyro onstage behind him. If the emcee, Dr. Metal, sufficiently controlled the stage at that moment to make his radio employer, Clear Channel, vicariously liable, then the company that *actually paid him* to hawk beer and toss out Budweiser hats and T-shirts that night was also his principal. “Dual agency” strikes again. Moreover, if Anheuser-Busch exercised sufficient control over the manner in which its licensees (like distributor McLaughlin & Moran) used the Budweiser trademark in promotions, then it, in turn, could be McLaughlin & Moran’s principal with regard to use of the mark in promoting the Great White concert. At least, that is what we on the Plaintiffs’ Steering Committee researched, and pled — and the Free Riders readily adopted.

Several other defendant groups rounded out the field. Our master complaint alleged that the installer of the fire alarm system at the time of the Derderians’ takeover of the club failed to install smoke detectors in the building’s HVAC ducts, as required by the building code at the time, which would have immediately shut down the air handlers feeding fresh air to the fire. We also alleged that the manufacturer and seller of the pyrotechnic gerbs failed to adequately warn users that its product’s sparks, thought by many to be “cool sparks,” could not be used where they might strike any flammable surface. (It didn’t hurt plaintiffs’ claim that the pyro manufacturer had previously shipped pyrotechnic gerbs interstate to Randy Bast — who sold some to Dan Biechele — using a phony pyrotechnic operator license number. The pyro company thereafter lost its federal ATF license.) Our final complaint also alleged that the bus company for the Great White tour violated a federal statute regulating the transport of specified quantities of fireworks across state lines. We added them all as defendants, perhaps in an excess of caution.

We also sued one other major group of defendants. For years before the Station fire, multiple insurance companies conducted inspections of the club’s building as part of their underwriting process. Inspectors for Lloyd’s of London and Essex Insurance Company, the “insurance inspection defendants,” toured the property, oblivious of the flammable polyurethane foam that covered the entire west end of the club. Had any one of them blown the whistle on the presence of solid gasoline on the club’s walls, the entire tragedy would have been averted.

Unfortunately for the fire victims, however, tort law requires more than negligence on the part of a defendant, even if reasonable care by that defendant would have prevented the tragedy. As a threshold inquiry, courts determine whether a defendant “owed a legal duty” to the class of injured plaintiffs. The insurance inspection defendants argued that it didn’t matter how negligent they may have been, because they only conducted the inspections *for their own purpose* — deciding whether or not to write insurance policies. They never undertook the inspections to protect the public and, therefore, owed no legal duty to the general public — no matter how careless

they may have been.

While no cases had been decided in Rhode Island on these facts, the law in most other states is exactly as urged by the insurance inspection defendants — that they have no legal duty to the plaintiffs, no matter how negligent they may have been. And Judge Lagueux agreed, granting the insurance inspection defendants' motions to dismiss all the claims against them. It was a serious blow to the plaintiffs, but not wholly unexpected.

Actually, the dismissal of claims against the insurance inspection defendants was a good example of the legal process at work. Plaintiffs' attorneys must necessarily plead as broadly as good faith allows — particularly in catastrophic mass tort cases such as the Station fire. Then, marginal legal theories are tested by preliminary motions, and some are dismissed long before trial. This winnowing-down by pretrial motion (either motions to dismiss, or for “summary judgment”) is the safety valve of the civil justice process. Moreover, unknown to most laymen is that *even after trial and verdict*, claims can be thrown out by the judge if the evidence did not meet purely legal requirements. Despite assertions of “tort reformers” (read: insurance lobbyists), complex tort litigation is anything but “jackpot justice.” The mill of justice may grind slowly, but it grinds exceedingly fine.

Finely or coarsely ground, justice in the Station fire cases would have to deal with the complications posed by multiple parties. Even the simplest case, like an automobile intersection collision, can involve multiple parties. A driver whose car is T-boned by another running a red light will likely sue the other car's driver. But if his injuries are worse than they might have been because a safety feature on his own car was defective, he might also add his car's manufacturer as a defendant.

Most cases involving multiple plaintiffs and defendants settle, if at all, in piecemeal fashion. That is, some defendants settle, and others don't. Still others may settle later, leaving yet fewer remaining defendants to go to trial. In the case of the intersection collision, the defendant driver might settle by paying his insurance policy limit, leaving the auto manufacturer as the lone remaining defendant.

One thing about the consolidated Station fire cases was fairly certain, however: no defendant wanted to be the last non-settler going to trial. Defense counsel spoke of not wanting to be “the last one at the party.” Given the enormity of potential damages awardable, a defendant would not want to be standing alone as a jury was being impaneled.

A defendant will not settle a case and leave other defendants in the case to go to trial, however, if there is any chance that the non-settling defendant can later sue *him* for contribution after the non-settler gets whacked at trial. For this reason, and in order to encourage settlement of disputes, most states have enacted some version of the Uniform Contribution Among Joint Tortfeasors Act. Unfortunately, Rhode Island's version was outmoded and contained a wrinkle that could cripple settlement

efforts in the Station cases.

In most states the system works as follows: in order for a settling defendant to have all claims of contribution (by non-settling defendants) against it extinguished, the settlement must provide that the amount later recovered at trial against non-settling defendants gets *reduced by the amount that was earlier paid by the settling defendants*. In other words, the non-settling defendants get a credit for each dollar paid by the early-settling defendants. In consideration for this, they lose their right to sue the settling defendants for contribution. The beauty of the setoff is that it is predictable. A plaintiff knows exactly what will be the result of his settling against some defendants and going to trial against others. And a settling defendant knows that he is out of the case for good.

Rhode Island's joint tortfeasor contribution statute, however, was stuck in the past. Its version of the law, promulgated in 1939, provided that the amount of any judgment later obtained at trial against non-settling defendants would be reduced by the *greater of either what the settling defendants already paid, or the settling defendants' proportion of fault*, as later determined at trial. So, a plaintiff considering settlement with one defendant could not know with any certainty what effect that settlement would have on his recovery against remaining defendants.

In the auto accident case, the Rhode Island law would work this way. If the plaintiff settled with the driver of the other car for his \$25,000 policy limit, then went to trial and obtained a \$1 million judgment against the car manufacturer, the jury would be asked to determine the percentage fault of the other driver. If the jury found the other driver 90 percent at fault, the judgment against the car manufacturer would be reduced by \$900,000 — not the \$25,000 received from the other driver.

Applied to the facts of the Station fire, this rule presented the plaintiffs with a terrible dilemma. Great White was happy to offer its \$1 million insurance policy limit to settle. But if the plaintiffs accepted it, and a subsequent jury trial found the band to have been 90 percent at fault, then a \$500 million judgment against all the remaining defendants would not be reduced by the \$1 million paid by the band, *but by 90 percent of \$500 million*. For this reason, the plaintiffs could not consider any settlement offer by any defendant. (The Uniform Contribution Among Joint Tortfeasors Act was modified in 1955 to recommend a straight dollar-for-dollar setoff of monies received from the settling defendant against any judgment obtained against non-settling defendants. For some reason, Rhode Island, unlike most other states, never got around to enacting the 1955 revision.)

I became convinced early on that modifying Rhode Island's joint tortfeasor contribution statute would be the linchpin for any settlement of the Station fire litigation. To that end, I set about drafting and urging passage of a change that would bring the state into line with most others, providing for a straight dollar-for-dollar setoff when one of many defendants settles.

For almost a year, one front in the Station fire war became a legislative battle in the Rhode Island General Assembly. With several Station fire burn victims at my side, I appeared before House and Senate judiciary committees, urging modification of our outmoded joint tortfeasor contribution statute. Arrayed against me was a phalanx of defendants' lobbyists determined to thwart any change. It finally took a special act of the Rhode Island legislature three years after the Station fire to bring the state up to date with the majority of jurisdictions that have a predictable dollar-for-dollar setoff. But the change was limited to cases in which "there are 25 or more deaths from a single occurrence." (Defense lobbyists were determined that, if such a settlement-encouraging modification were to pass, it would apply *only* to the Station fire.)

At the same time I was fighting the plaintiffs' legislative battle, pretrial motion practice continued in the courtroom. Thirty defendants filed motions to dismiss the cases against them on purely legal grounds, each of which had to be researched, briefed, and argued before the federal court. (A motion to dismiss says, in effect, "Even if every fact alleged by the plaintiffs in their complaint is true, their claim cannot succeed as a matter of law.") It took a full eighteen months to adjudicate all the motions to dismiss, but at the end, all but the insurance inspection defendants' motions were denied by the court.

After that, the cases moved into the "summary judgment" stage. (A motion for summary judgment effectively says, in hundreds of pages, "The plaintiffs cannot marshal sufficient evidence to prove the facts alleged in the complaint.") In this phase, some thirty-one defendants moved to have the cases against them thrown out, supporting their motions with not only legal argument but deposition testimony, documentary evidence, and affidavits. The PSC responded to each such motion by requesting detailed discovery of persons, objects, and documents in order to develop their opposing proofs. It was during this stage of the proceedings that the modification to Rhode Island's joint tortfeasor contribution law was passed, enabling settlement movement for the first time.

The first deep-pocketed defendants to come to the table, agreeing to participate in private mediation in an attempt to settle, were unlikely ones — Brian Butler and WPRI. Butler's defense was set forth in a sworn affidavit that he had filed in support of a motion for summary judgment. In that document he averred:

Once I realized there was a fire, I immediately turned to leave. I began walking toward the exit with the camera carried across my chest aimed in the general direction of the stage and the band. . . . *I did not see what was occurring behind me as I made my way toward the exit*, but the video camera was filming continuously from the start of the fire until I exited. Once I first noticed the flames I did not stop to film the patrons: I exited the building. *After I turned from the stage, I did not look into the camera view finder again to film a shot until after I was outside The Station.*

In response, we turned to the Butler video itself, which our experts had examined frame by frame. The experts' analysis was embodied in a computer animation that depicted Butler (and his camera's) vantage point within the club on a second-by-

second basis. What that analysis revealed was striking. For approximately thirty seconds after the fire's ignition, Butler's camera moves with him toward the main doors; then it appears to stop. Butler at that point shoots toward the stage, in a direct sight-line to the stage door. His position for the next eight to ten seconds appears relatively static. People in the crowd behind Butler can be seen pressing forward against him, trying to get to the main doors. Recognizable among those people is Erin Pucino.

One might argue that an eight-to-ten-second delay did not make a material difference to people's egress; however, Erin Pucino became trapped in the pileup at the front door, only to be pulled from it moments before flames engulfed everyone behind her. From her example alone it would appear that seconds counted for many victims.

Perhaps the most probative piece of evidence concerning Brian Butler came not from the video, but from the audio track of his film that night. From the moment of the fire's ignition, Butler's camera ran continuously, capturing sights and sounds in real time. The tape depicts his escape from the club, his two trips around to the stage-door exit, and the horrific aftermath in the club's parking lot. Then, seven and a half minutes post-ignition, Butler set his still-running camera on the ground next to his TV station truck, where it captured audio of his breathless cell phone call to station management: "You need a live truck down here right now! There are multiple, multiple deaths in this thing. You've got to get people down here. I'm fine. I got out, and I was one of the first people to get out of this place, but *I saw what happened. I have it all on tape from inside.*"

However, at the time of his phone call, Butler had not even stopped, much less reviewed, his tape. I argued at settlement mediation that his cell phone call was not the statement of someone who "did not see what was occurring" behind him, or someone who "did not look into the camera view finder again to film a shot" until he was outside. Rather, his call was the excited utterance of someone who had held his ground inside the club to get the shot. How did Butler know he had "gotten it all on tape from inside" if he never looked through his viewfinder? And, if he continued to frame his extended shot of the stage and stage door exit without ever looking through the viewfinder, Brian Butler was not only a lucky escapee, but one very lucky videographer.

Faced with the computer animation of Brian Butler's position during his final minutes inside the club, the affidavit and photos of Erin Pucino pressing to escape behind him, and the audio of his cell phone call from the parking lot, the insurer for Brian Butler and his employer had to realize those defendants were probably not going to get out of the case on summary judgment. And, if summary judgment were denied, the price to settle would go up significantly. In light of this, the insurer eventually agreed to settle all claims against Butler and his employer for \$30 million.

By no means did Butler admit liability. But his settlement was the first chink in the Station defendants' collective armor.

The settlement with Butler and WPRI sent a mild shock wave through the defendants' camp. Butler and his employer were initially thought to be "peripheral" defendants. However, if *they* saw peril for themselves, then maybe others had more to worry about than they had originally thought. Over the next ten months, several other defendant groups would voluntarily participate in private mediation to see what we had on them. Eventually, settlements would be struck with most.

Plaintiffs' attorneys showed Dr. Metal's radio station employer, Clear Channel Communications, the evidence of Mike Gonsalves's presence onstage while Dan Biechele set up the pyro. We also played Matthew Pickett's audiotape of Gonsalves's between-set patter ("We're back. We're fuckin' back. . . . Drink all the Budweiser in the house") for our Clear Channel counterparts. It is unknown whether the audio image of its employee hawking beer, while deadly pyro was set up on the stage behind him, played any role in Clear Channel's final settlement offer of \$22 million. That offer was, however, accepted.

One spring evening, five years after the fire, I had the opportunity to show members of the West Warwick Town Council a video demonstration of what the mandatory "match flame test" would have revealed to their fire marshal, Denis Larocque, had he performed it on The Station's polyurethane foam. As flames raced up the sample of gray egg-crate foam, dripping blazing plastic, I marveled at the bored, almost aloof, expressions of several council members. Did they not care? Were they numbed by constant exposure to the tragedy? Or were they simply unwilling to accept that their own fire marshal had willfully ignored this "solid gasoline" on the club's walls?

Then, I screened for the council a computer animation of the crowd density permitted by Larocque's various occupancy calculations, with to-scale images of occupants' "shoulder-prints" superimposed on the club's floor plan. It stunningly depicted the cattle-car overcrowding sanctioned by Larocque. Finally, I played them some of Matthew Pickett's ghastly audiotape of The Station's last minutes. Only then did I hear some snuffles.

A few weeks later, the West Warwick Town Council agreed to settle all claims against the town for \$10 million, some of which would be funded by bond debt. Larocque's other principal, the state of Rhode Island, followed suit, pledging another \$10 million to settle all claims against it.

Triton Realty Limited Partnership came up with \$5 million to settle all claims; Anheuser-Busch, another \$5 million. McLaughlin & Moran's insurers offered \$16 million. We accepted each. The fireworks manufacturers had \$6 million in insurance and no other assets to speak of. We had no choice but to take it in settlement. As we did with the fire alarm installer's \$1 million. And the Derderians' \$1 million policy.

Along with the band's million. American Foam ponied up a total of \$6.3 million, \$5 million of which was insurance money.

Members of the Plaintiffs' Steering Committee negotiated with the various possible manufacturers of the polyurethane foam, arguing that American Foam's shipping and receiving documents narrowed its possible manufacturers to two. The PSC would eventually accept a total of \$30 million to release claims against all the PU foam manufacturers they had sued. To the extent that any PU foamer believed that it had not sold the particular non-flameretardant foam that ended up on The Station's walls, it had to also know that it sold the same stuff for years — without educating end users about the product's flammability. If contribution to the settlement meant that it would be more forthcoming in the future marketing of its PU foam, then public policy was well served.

By the summer of 2008, settlements had been struck in principle with almost all defendants, totaling \$151 million. The change in Rhode Island's law of joint tortfeasor contribution had enabled the plaintiffs to rationally evaluate separate settlements with individual defendants, because they knew there would be a dollar-for-dollar setoff from any subsequent judgment. Defendants, for their part, were able to rationally assess the possible total damages in the case if they were to proceed to trial — and strike a deal whereby they could pay much less than their downside risk of going to trial — even with that number discounted for the possibility of a defendant's verdict.

One other factor that motivated settlement by several defendants was that the litigation in federal court was proceeding at a glacial pace. Five years into the case, discovery in support of summary judgment motions had not yet begun. And defense counsel had already billed their clients millions of dollars, with the meter still running at a furious pace. In an ironic twist, the very deliberate pace at which the case moved in the defendants' chosen forum caused many of them to consider settlement who might not have otherwise done so. In short, many defendants were being bled to death by their own counsel, with no end to the bloodletting in sight.

Most of the time, delay hurts plaintiffs. Here, counterintuitively, it came to work in their favor.

As we advanced our theories of liability in court against various product manufacturers, one question kept gnawing at our fire experts. One of those consultants, Robert "Brady" Williamson of the University of California at Berkeley, continued to study the Butler video — and puzzle over one of its features. Specifically, he observed that, mere minutes after ignition, flames of blowtorch intensity belched several feet from almost every window and door opening in the club. The stunning speed and ferocity of the blaze suggested to Williamson that some energy-rich fuel, beyond the Derderian-applied polyurethane foam, was feeding the fire. He just could not tell what it was.

CHAPTER 27

BURNING QUESTION

JUST PAST THE SIGN WELCOMING VISITORS to Kelso, Washington (“Home of the Highlanders”), is the entrance to a dingy industrial park. Nestled between the Truck & Axle Service Corporation and a local airstrip is a large gray metal building where grown men play with matches. And building materials. And substances that people are stupid enough to use as building materials.

The facility is home to the Western Fire Center. There, fire protection engineers conduct computer-monitored full-scale burn tests of materials and structures, and there would be answered one central mystery of the Station tragedy: how a building fire could spread with such fatal intensity in just a minute and a half.

In July 1996, when Howard Julian installed sound-deadening material in the drummer’s alcove of the club, fire safety was not his first priority. Julian spent the better part of a day taking rigid white plastic foam blocks, about seventeen inches square and two and a half inches thick, and screwing them to the three walls of the drummer’s alcove. First, however, he took remnants of soiled red carpet from the club and put them up on the walls as a backing material, figuring it would further deaden the sound. The old rug had another attractive quality: it was free.

Three-inch screws would do it, and Julian drove one at each corner of the white blocks with an electric drill. His then club manager, Tim Arnold, looked on with only passing interest. It was neither the first, nor the last, time an owner of the club would install sound dampening materials of dubious provenance there.

Mickey Mikutowicz’s Black Sabbath tribute band, Believer, played The Station about four times a year for a number of years. The night of July 19, 1996, found him back at the club, pretending to be Ozzy Osbourne after putting in a long summer day as a landscaper. But the gigs were good fun, and if he watched his costs, Mickey and his group could make a few bucks.

And Mikutowicz was good at watching his costs. He was extremely practical, and concerned with safety, as well. (He was the band leader who insisted on a “no pyro in the dressing room” clause in his contracts after seeing someone from another band pouring gunpowder into a flashpot at The Station with a lit cigarette dangling from his mouth.)

While packing up his band’s equipment the night of his July 1996 Station gig,

Mikutowicz noticed a stack of white rigid foam blocks discarded outside the band door of The Station. “They’d be great to pad instrument cases,” he thought, and he threw several into the back of his van. Over the years, Mikutowicz would cut them up and use them in various projects.

Inside the club, Howard Julian finished his installation by spray-painting the white foam blocks on the walls of the drummer’s alcove black, and hanging a black curtain over them. That remained the alcove’s wall treatment for almost three years, until the Derderians bought the club in the spring of 2000. At his first inspection of The Station under the Derderians’ ownership, fire marshal Denis Larocque cited the club for the curtain over the walls of the drummer’s alcove, because it bore no fire-rating label. It was immediately taken down.

What Larocque may have thought about the spray-painted foam blocks underneath the curtain is unknown. Several weeks later, however, the Derderians used 3M spray adhesive to glue gray “egg-crate” polyurethane (PU) foam over the entire west end of the club — including the walls of the drummer’s alcove.

Mikutowicz’s band, Believer, was scheduled to play The Station again in February 2003, just eight days after Great White. The night of the fire, Mickey watched the story unfolding on TV and listened as reporters spoke of “flammable foam on the club walls.” He immediately thought of the discarded foam blocks he’d picked up outside the band door years earlier. One phone call to the Rhode Island State Police, and a federal ATF agent was on Mickey’s doorstep the next day to pick up his last unused block of the foam.

But the block of “Mickey foam” was dense, closed-cell white foam with about the rigidity of “swimming pool noodles” — not the flexible egg-crate stuff everyone saw covering the west end of the club just before the fire. As a result, the single seventeen-by-seventeen block, with curious L-shaped corner-cuts, was thrown into a West Warwick Police Department evidence locker, where it attracted no attention whatsoever — not of the police, the feds, or even the National Institute of Standards and Technology (NIST) team sent to examine the tragedy. Law enforcement would concentrate, for the case’s duration, on the egg-crate polyurethane foam seen catching fire on the corners of the drummer’s alcove in Butler’s video.

For six weeks after the fire, experts hired by the Plaintiffs’ Steering Committee combed the club’s wreckage for artifacts that might be of possible use in the civil litigation. They gathered over seven hundred specimens and took over a thousand photographs as they did. Affixed to each specimen was an embossed-brass exhibit tag. The investigators attached tag number 458 to materials covering a section of the south wall of the drummer’s alcove. These materials escaped being completely consumed by fire because they were so tightly sandwiched between the drummer’s riser and the wall itself. The wall materials were removed intact and stored in the plaintiffs’ civil evidence warehouse.

Several months after the fire, plaintiffs' fire expert Brady Williamson still couldn't grasp what energy-rich fuel, beyond the PU foam, drove the roaring blaze seen on the Butler video. Sure, the PU foam caught fire quickly, almost like flash paper, but it would have expended its energy and burned out just as quickly. Even the NIST investigators seemed troubled by this conundrum, writing,

Once ignited, the polyurethane foam reached peak heat release rates . . . in less than 60 seconds. . . . The polyurethane foam was a low density material and was quick to ignite, but the mass of the foam was consumed in a relatively short period of time. The foam would have contributed to a quick initial fire growth, but typically would not have had sufficient mass to carry the fire past the initial stages.

Williamson felt strongly that something else had contributed to the initial fuel load, and in a big way.

On July 1, 2005, I joined about fifty lawyers, their fire experts, and photographers under a tent that had been erected in a field across the street from the West Warwick Police Station. We were invited there by the attorney general's office to view Station fire artifacts stored in an evidence locker — actually, just a rusted green metal cargo container — for the pending criminal proceedings. It was pouring rain, and I was no more enthused about the endeavor than anyone else there. One by one, exhibits were removed from the locker and placed on a table, where we took turns photographing and videotaping them. No spokesman commented on any exhibit. It was show-and-tell without any “tell.” A dumb-show in the most literal sense. And just about as helpful.

One of the objects photographed, and speculated about, was a seventeen-by-seventeen-inch square of white foam, bearing an address label for one “Mikutowicz, Michael” of Adams, Massachusetts — hours away from West Warwick, Rhode Island. The foam was actually a laminate, consisting of four fused 5/8-inch-thick layers. I thought that perhaps Mikutowicz was some plastics expert or fire engineer. In any event, it was clear that the foam looked nothing like the egg-crate PU foam everyone knew caught fire. There were a few singed remnants of the actual PU foam, and those were venerated like the Shroud of Turin. But the clean white block of rigid laminated foam, with its small L-shaped corner-cuts, drew little interest from me or anyone else in the sodden crowd. It was quickly returned to the metal storage container.

I turned to my fire expert, Carl Duncan, and deadpanned, “Well, *that* stuff's the key to the case.” We both laughed. What a useless exercise. It was getting late, and we were both getting wetter by the minute. After a few more worthless fire remnants made the rounds of the crowd, we repaired to our cars, convinced the day had been an utter waste.

Two months later, while I sat in my office, mired in motions, objections, and legal memos, my phone rang. It was Duncan. “Get out your exhibit photos from the fire scene. You're gonna love this,” he began excitedly. “OK. Look at the pictures of

Exhibit 458 — the mess of stuff from the wall of the drummer’s alcove.” I did. It was unrecognizable trash — singed fiber, plastic, screws, and pieces of carpet. It meant nothing to me.

“Look at the edge of the white stuff,” insisted Duncan. The material was heat-deformed and smoke-stained, but on closer inspection it looked like half-melted blocks of some four-ply material. And each block appeared to have a small, L-shaped notch cut out of the corner. “Look familiar?” crowed the fire investigator. Sure did. It was the same material as the clean white block from the West Warwick police evidence locker — with the name “Mikutowicz, Michael” on its label.

Once my heart rate returned to baseline, I placed a call to the only Michael Mikutowicz listed in Adams, Massachusetts, immediately discovering that this gentleman was no plastics engineer or fire scientist. “Mickey” Mikutowicz was a landscaper and snowboard instructor by day and Ozzy Osbourne imitator by night. The story of his acquiring the foam blocks outside The Station’s band door in 1996 was a revelation to me. “I know this is a long shot, but it’s very, very important,” I pleaded. “Do you possibly have any more of that stuff?”

Mikutowicz wanted to help the fire victims, but he was pretty sure he had given the ATF agent his only remaining piece. “Please check one more time — for the victims’ families.” Then I made a tactical decision. Forget cool. Forget professional reserve. I begged. “This stuff could be the key to identifying another critical defendant. You’ve got to help us.”

Mickey said he’d try, but he wasn’t optimistic.

Three long days later, the ersatz-Ozzy called me back. “You won’t believe this, but I’m going through the scrap barrel in my father’s workshop where I do all my projects. And here’s this piece of the laminated foam. It’s about seventeen inches long and three inches wide. And it’s got this corner cut, ya see.”

Adrenaline-wired, I assembled a team consisting of a videographer, court stenographer, and evidence technician, then dodged radar traps as I raced to take a sworn statement from Mikutowicz in western Massachusetts that same night. Upon arrival at his house, and before taking his statement, I first got a tour of his basement collection of snowboards. Then, another tour of Mikutowicz’s model airplanes, suspended from the ceiling by threads for verisimilitude. Luckily, this man was a collector — make that a pack rat.

Mickey’s video statement documented the chain of custody of the foam remnant and authenticated his ledger book listing Believer’s appearances in 1996. It contained an entry for July 19, the night Mickey cadged the foam blocks from outside The Station. The man’s story had the ring of truth; his remnant of foam was an absolute twin of the fire-damaged laminate in Exhibit 458.

I sped back to Providence, elated. We now had a pristine, vintage exemplar of the foam that Howard Julian applied to the walls of the club in 1996. And, what’s more,

we could examine it in any way we wanted, in order to divine its origin. Unlike the heat-damaged specimen marked as Exhibit 458, which was under court control and not available for destructive testing of any kind, the “Mickey foam” was the plaintiffs’, to do with as we pleased. It was an evidentiary godsend. Find its seller and manufacturer, and two additional defendants could be added to the case.

The mystery laminated foam turned out to be closed-cell *polyethylene* (PE) foam. It was denser and more rigid than the convoluted *polyurethane* (PU) foam put up by the Derderians in 2000. It was certainly flammable and unsuitable for use as a wall covering. And it bore no warning whatsoever about flammability or dangerous misuse. But we hadn’t a clue where it had been purchased.

In order to learn where Julian bought the PE foam, I turned to Howard himself, taking his deposition under oath. But to no avail. According to Julian, he obtained the white foam blocks from “a foam business . . . [in] Rhode Island,” but he could not be more specific. He had no credit card receipt or business record of the purchase. (One would think that a business owner would want to document deductible expenses.)

Asked what type of business he bought it from, Julian responded, “I’m assuming, a foam business.” He further “assumed” that he found the business “from a phone book.” Julian “could not remember” how much he paid for the foam, whether he paid by cash, check, or credit card, whether he first measured the alcove to determine how much foam to buy, or even how many pieces he bought. Nor could he remember whether the blocks he “bought” had notched corners. The ex-owner had exquisitely detailed recollection of most other aspects of the club — just not where he bought the flammable foam that he screwed to the walls of the drummer’s alcove.

As the three-year statute of limitations approached, attorneys from the Plaintiffs’ Steering Committee scrambled to figure out who sold Julian flammable foam for use as “sound foam” in a place of public assembly. To this end, they took forty depositions, including every business the 1996 Providence Yellow Pages suggested might have sold insulating materials to the public at that time. None had any records of a sale to Julian, and none, any recollection of the curious die-cut, notch-cornered block in the police evidence locker. Depositions of ten machine shops that made dies at the time revealed no record of a punch die being manufactured in that notch-corner shape. Best they could guess, the foam blocks were intended for packaging, with the corners cut to fit a particular product or box. We had hit a brick wall.

With the three-year anniversary of the fire looming, I had to finalize our Third Amended Master Complaint. It could not name any retail seller of the PE foam; rather, the only PE product defendants were the three companies who manufactured any substantial amounts of four-ply laminated PE foam in 1995 and 1996: Pactiv Corp. (the successor to a company called AVI), Sentinel Products Corporation, and Sealed Air Corporation. Sentinel Products was a Massachusetts corporation with minimal business or assets. Pactiv was huge, and Sealed Air was at least as large, its flagship

product, BubbleWrap, used to pad mailers (and fascinate obsessive bubble-poppers) worldwide. If we could make product ID against either Pactiv or Sealed Air, we might have a shot at recovery, depending upon how the product had been sold in 1996. If it turned out, however, that Sentinel made the Julian-applied foam, that company was probably incapable of paying any substantial damages.

Pactiv took an unusually candid and proactive approach to its defense of the case. Early on, it sought an informal meeting at my firm during which its product engineers were permitted to nondestructively examine our precious piece of Mickey foam. When Pactiv's experts looked at the Mikutowicz foam, their relief was obvious. The engineers announced that they were certain it was not theirs, because in 1996 Pactiv was technically incapable of producing four-ply foam of the high quality exemplified by our sample. Its fine grain, high cell count, and thin lamination layers were attributes that Pactiv, new to laminated PE foam production in 1996, strove for, but without success, until it completely revamped its production line in later years. During subsequent meetings, Pactiv personnel presented video of their production methods, physical samples of the company's 1996 product, and copies of its 1996 quality-control records, all confirming Pactiv's inability to manufacture the higher-quality foam that Julian put on The Station's walls. As a result, we and our foam consultants became convinced, to a moral certainty, that Pactiv could not have manufactured the Julian-installed PE foam. Therefore, we voluntarily dismissed our claims against Pactiv.

The plaintiffs benefited in another wholly unexpected way from our candid exchange of information with Pactiv. Pactiv had done research in 1995 and 1996 to determine different companies' market shares for laminated PE foam plank. Lovely pie-charts from that research explained that Sealed Air had 51 percent of the market in 1995, Sentinel had 26 percent, and Pactiv, only 8 percent. If one were to eliminate Pactiv as a possible producer of the Julian-installed foam, Sealed Air's market share went up to 56 percent, and Sentinel's to 29 percent. The argument could therefore be made that, to a mathematical probability, it was more likely that Sealed Air's foam had graced the walls of The Station.

Sealed Air took a more traditional route in defending against the plaintiffs' claims. It filed a motion for summary judgment, attaching company marketing brochures for its laminated PE foam plank from 1993 to 1995. In so doing, it would unwittingly walk into a buzz saw.

The mystery of where Howard Julian obtained his PE foam blocks was eventually solved by further interviews with, and a sworn affidavit from, ex-Station manager Tim Arnold. Arnold finally admitted that, as he watched Julian install the foam in 1996, Julian told him he had found the foam "in a dumpster." According to the Arnold affidavit, Julian had no packaging material, boxes, or receipts for his claimed

purchase of the foam.

Why would Howard Julian have an incentive to lie about the foam's origin? Well, at the time, Jeffrey and Michael Derderian were facing hundreds of felony criminal charges for, among other offenses, putting flammable foam on the club's walls — foam that *they* obtained from a reputable supplier, American Foam Corporation. If the *Derderians* were in criminal peril for installing sound foam from a legitimate source, how would it look for Julian if it came out that he had endangered club patrons by dumpster-diving for *even cheaper* "sound insulation"?

The good news after Tim Arnold's revelation was that we now had strong evidence of where Julian obtained his foam. The bad news was that, in order to advance a product liability theory against the foam's original manufacturer, we would essentially be urging "dumpster product liability." Considering that the law of product liability originally required "strict privity" (the relationship between buyer and seller) in order for an injured consumer to bring suit, dumpster liability sounded a stretch, at best.

We would have our work cut out for us. In order to prove a product liability case against a PE foam manufacturer, we'd have to show that (a) its reuse through recycling was foreseeable; (b) PE's use as a sound insulator was also foreseeable; (c) printed fire hazard warnings on PE plank were feasible and would not have impaired its proper uses; and, (d) the presence of PE foam on the walls of The Station made a material difference to the intensity of the blaze.

Of course, a threshold issue before even these could be reached was, "Who most likely made the Julian foam?" If it were Sealed Air, the claim might have value; if Sentinel, it would have none.

At the time Sealed Air filed its motion for summary judgment, with attached marketing brochures, it could not have known that the chain of custody for Julian's foam would include recycling via dumpster. So it probably saw no harm in voluntarily producing documents from 1993 to 1995 in which Sealed Air bragged that its foam was "designed for maximum re-use" and could be "reused, returned and recycled." "Sealed Air Plank can be used over and over again," trumpeted the brochures.

As to the use of Sealed Air PE foam for sound insulation, the same mid-'90s sales brochures listed "acoustical insulation" and "sound deadening" among its applications. Once again, we had Sealed Air to thank for helping us prove a critical issue in our case.

But what of the feasibility of printing flammability warnings on the board stock before it was shipped to fabricators? Was there any precedent in the plastics industry for printing warnings on a product about misuse after the end product was discarded? Well, one that every juror was familiar with was the warning appearing at intervals on the clear plastic film used for dry cleaner bags: "*WARNING! This bag is not a toy. Danger of suffocation. Do not use it to line cribs.*"

Thanks to Sealed Air, it looked like recycling and reuse of PE foam were

foreseeable, as was its use for sound insulation. And there appeared to be precedent for warning of foreseeable misuses after the product was discarded. All that remained was for us to prove that the PE foam made a difference in the Station fire.

Oh, and one other little matter — proving that Sealed Air actually made the Julian foam.

The Western Fire Center in Kelso, Washington, contains equipment that would be the envy of every thirteen-year-old computer geek / pyromaniac — which is to say, also most adult males. If the whole law thing doesn't pan out for me, I'd like to work at the Western Fire Center, burning stuff. Once, they were hired to test whether shattering high-intensity mercury-vapor lamps could ignite warehouse fires. For this, they installed huge lamps above pallets of combustibles — and shot out hundreds of the hot bulbs with a BB gun. They also tested an acetylene-powered gopher extermination system that had, unfortunately, launched a farmer who had the poor judgment to stand over the gas-filled main gopher-hole as he fired it up. My kind of science. Hell, I'd pay *them* to work there.

The necessity of testing polyethylene foam to demonstrate its contribution to the Station fire was reinforced for me one Saturday in 2008. I was cleaning up storm debris from the shoreline in front of my house, tossing branches onto a small bonfire I'd built for the task. One interesting piece of flotsam was a buoyancy panel from a dock or boat. About six inches thick and two feet by two feet, it was a block of white closed-cell foam — probably polyethylene. Unthinking, I threw it on the fire — and immediately regretted it.

The foam block ignited and began to belch dense black smoke in a quantity I could never have imagined. It roared and crackled and burned for what seemed like forever, creating an inky plume that rose into the cloudless sky and began to be carried over the ocean toward Westport, Massachusetts. There was simply no putting it out. The smoke column rose hundreds of feet, leading right back down to the guilty polluter — me. As I awaited the arrival of environmental protection officers, I became absolutely convinced that the PE foam had made a difference in the intensity of the Station fire. And that there had to be some way to quantify it.

In May 2008, I commissioned the Western Fire Center to try to answer the question, “What difference did the presence of Howard Julian's PE foam, underneath the Derderians' PU foam, make in the first minutes of the Station fire?” The answers were produced quantitatively, by the computers, and graphically, by videotape.

One of the largest devices at the Western Fire Center, which would prove invaluable in the Station fire case, is something called a “hood calorimeter.” It is, essentially, a huge, asbestos-curtained exhaust hood under which boxcar-size structures can be burned, while powerful computers monitor instrumentation within the exhaust stream for temperature and by-products of combustion. By burning

different materials under the hood, fire scientists can quantify each material's contribution to a fire's "fuel load" and, hence, its intensity.

The first test was to determine how soon PE foam blocks would become involved in a fire when egg-crate PU foam, glued on top of them, was ignited. I watched, fascinated, as Western Fire Center personnel constructed room corners from gypsum wallboard (a fireproof material) and screwed four-ply laminated PE foam blocks to its walls. They inserted temperature sensors through the back of each wall, to the surface of the PE foam. Then, they glued egg-crate PU foam on top of the PE foam, of the type and density used by the Derderians at The Station. They set fire to the structure using a standardized ignition source at the base of the corner, and the computer plotted how soon the PE foam became involved in the blaze: about twenty seconds.

Then, we undertook to determine the difference that the Julian PE foam made in the first minutes of the fire. To do this, Western Fire Center engineers built one room corner covered only with egg-crate PU foam and another covered with the PU/PE foam sandwich, affixed with screws and glue, just like at The Station. They burned each under the hood calorimeter so that the computers could calculate the heat release rate over time, a value that fire scientists use as shorthand for a fire's intensity.

The results were stunning. As expected, during the initial forty-five seconds of the fire, when the egg-crate PU foam was primarily involved, the heat release rates of the PU and PU/PE sandwich were similar. But after the PE foam layer caught fire, the energy output of the PU/PE sandwich outpaced the PU-only test by a factor of five. At the ninety-second point, the PU/PE sandwich's heat release rate was almost *seven times* that of the PU foam. Also, the carbon monoxide released by burning the PU/PE sandwich dramatically increased at ninety seconds, and continued to rise for another minute and a half, while that released in the PU-only burn test steadily diminished from seventy-five seconds onward.

Videotape from the testing was even more impressive. On the video, the PU-only test starts fast, but begins to diminish in intensity after only one minute. At ninety seconds, it is almost out. By contrast, the PU/PE sandwich test is still roaring with freight-train intensity after ninety seconds. Its furious burning only begins to abate after three minutes.

One final test remained to be performed. The technicians built an actual eight-foot by ten-foot room, lining its ceiling and two walls with the PU/PE sandwich, as at The Station, and placing the standard ignition source in its corner. Thermocouples measured temperatures at multiple points in the room.

The video of the room test is nothing short of spectacular. Within twenty-two seconds, flames and smoke can be seen roaring from the door opening. At thirty seconds, fire belches ten feet above the door's lintel, threatening to overwhelm the hood calorimeter. Western Fire Center personnel can be seen knocking down the blaze with a fire hose after only two minutes. The point had been made.

Howard Stacy, vice president of testing at the Western Fire Center, observed the room test, remarking that in thirty years of fire testing, he had never seen a room flash over faster or become more flame-intense. General Manager Mike White, who manned the computers for the tests, put it simply: of any materials anyone had ever actually lined a room with, the PU/PE sandwich had produced the most dramatic room corner test they'd ever experienced.

The question posed by Brady Williamson five years earlier had finally been answered. Williamson himself, however, would never learn the test results. He died of melanoma nine months before they were available.

But what about product identification? The best evidence we had that the Julian foam was probably made by Sealed Air (the only deep-pocket PE foam defendant left) was the market study conducted by Pactiv in 1995 showing Sealed Air with a 56 percent market share. But would a 56 percent share be legally sufficient for a jury to conclude that Sealed Air probably made the Julian foam? More immediately, though, would it be enough to induce Sealed Air to consider settlement?

Sealed Air was the last defendant to agree to private mediation in an attempt to “see what the plaintiffs had,” to present their own defense, and to try to hammer out a settlement. The mediation was scheduled for May 30, 2008, in Boston, and would take place with an unusual ground rule: neither side could chemically test the other's foam before the mediation.

You'd think that if Sealed Air's foam could be ruled in or out chemically before the mediation, both sides would want to know. However, such testing would effectively be a “doomsday button,” yielding a binary result that would be either very good or very, very bad for one side or the other. Sometimes the goals of mediation and settlement are better served when both sides perceive roughly equal peril. Counsel for the plaintiffs and Sealed Air agreed, therefore, to try to settle before chemically testing each other's foam.

However, as the mediation date approached, I wondered, Might there be a way to establish with certainty that Sentinel Products Corporation (the other remaining likely producer of the foam) could *not* have made the Julian foam? If so, Sealed Air's 1995 market share for laminated PE foam would go from 56 percent to 79 percent, creating a much stronger probability that Sealed Air made the Julian foam.

We came to learn that Sealed Air and Sentinel had previously locked legal horns, resulting in a settlement whereby Sentinel agreed (prior to 1996) to produce only “cross-linked PE foam” (a type of formulation referring to the strength of certain chemical bonds), while Sealed Air continued to produce the *non*-cross-linked variety. If the PE foam on the walls of the Station were *not* cross-linked, then Sentinel probably didn't make it. Sealed Air, with 79 percent market share, would have been the overwhelmingly likely producer of the Julian foam.

Testing a piece of the Mikutowicz foam in our possession could be done in private, and without court permission. It wouldn't involve testing a known Sealed Air product, so it would not violate the ground rule of the upcoming mediation. And if the test answer came out right, it could be a game changer.

Two days before the scheduled mediation, I engaged a materials specialist, Chris Scott, Ph.D., to test small samples of the Mikutowicz foam to see if it was a cross-linked polymer. In the short time remaining before the Boston mediation, Scott would use a standardized test methodology in a laboratory across town at MIT, immersing a stainless-steel mesh pouch containing a cube of the Mickey foam in a beaker of warm xylene solvent. If no gel or polymer residue remained of the foam after its hot bath, it could not be a cross-linked polymer, and it would be extremely unlikely that Sentinel made it.

Given the shortness of time, I prepared another, optional, slide to add to my PowerPoint presentation at the Sealed Air mediation — a bar graph showing Sealed Air with a 79 percent market share in 1995. Whether it could be used would depend upon the testing being performed at that very moment on the other side of the Charles River.

Shortly before the mediation, counsel for Sealed Air called me with a request: could Sealed Air bring its fire expert, Frederick Mowrer, Ph.D., to the mediation? I hesitated for a moment, then agreed. What could be the harm? Either our proof was credible, or it was not.

The night before the mediation, I trudged across Boston Common, heading back to my hotel after a not-very-relaxed dinner. I had assembled the biggest presentation of my career at the mediation site. All computer visuals were queued up and ready to go. Only one decision remained, and that was whether I'd be able to use the optional, 79 percent market-share, slide. As I reached the sidewalk of Boylston Street, my cell phone rang. It was Chris Scott, calling from the MIT lab.

The mediation presentation began the next morning at 9:30. Sealed Air brought at least six people, including several attorneys, insurance representatives, and their fire expert, Dr. Mowrer. I presented our theory of the case against Sealed Air, and our proof of each element of the claim. The evidence of Howard Julian dumpster-diving for the foam was reviewed, as well as the remarkable confluence of events that established the Mikutowicz foam as a piece of the Julian-installed 1996 foam. The foam's pedigree was graphically demonstrated: photos of the Julian foam installed in the drummer's alcove (behind Mickey Mikutowicz, in his Ozzy Osbourne persona); Exhibit 458, with corner-cuts matching the Mickey foam; the Tim Arnold dumpster-diving affidavit. Then came Sealed Air's own documents, establishing that the company itself foresaw and encouraged both reuse of its PE foam and use of the foam for sound insulation.

On the issue of whether the foam industry had been aware of dangerous misuse of its products before the Station fire, I explained that, less than a month after the blaze, a special meeting of the National Fire Protection Association's Technical Committee on Assembly Occupancies was convened. At the mention of that NFPA meeting, Dr. Mowrer, Sealed Air's fire expert, leaned to an attorney for the company and proudly stage-whispered, "I was there."

My next PowerPoint slide was a direct quote from one of the speakers who had addressed the NFPA meeting. It was extremely revealing of what the foam industry had long known about dangerous misuse of its products:

My comments today are restricted to the issue of the use of foam plastic products in buildings, particularly those used for assembly purposes. . . .

As evidenced by the recent fire at The Station nightclub in Rhode Island, *the use of exposed foam plastics continues to be a problem*. It is difficult to assess the magnitude of this problem, but *based on my experience, I believe it is pervasive*. . . .

In my opinion, the unsafe misuse of foam plastic products in buildings *continues to be a pervasive problem* that is perpetuated by improper testing and *misrepresentation of the flammability characteristics* of these products.

The following slide was a clear head-shot of the noted fire expert who had spoken those words to the NFPA audience: Frederick W. Mowrer, Ph.D.

I allowed a few seconds for that slide to sink in, then moved on.

Turning to the market-share data from 1995, I explained how Pactiv had been eliminated from the possible producers, and how chemical testing of the Mikutowicz foam the previous night had shown it to be a non-cross-linked polymer — and therefore not a Sentinel product. Up went the slide showing Sealed Air's resulting market share after Pactiv and Sentinel were eliminated from consideration: 79 percent.

The reaction of one Sealed Air attorney was explosive. "The rules were 'no chemical testing,'" he sputtered. "No," I responded. "The rule was 'no testing of *each other's foam*' " — and we didn't. Sealed Air was welcome to test its own foam," I explained, "but we now know that the Station PE foam wasn't cross-linked."

Slow burn from across the table.

Then came the data and video from the Western Fire Center testing that showed the fourfold difference in cumulative energy released and threefold difference in carbon monoxide production of the PU/PE sandwich over the PU foam alone.

Finally, we wrapped up the presentation with a sampling of what a jury would likely experience when considering evidence of the pain-and-suffering endured by those killed in the fire. I ran the Butler video, with Matthew Pickett's chilling sound recording from inside the club time-synched to it. When the lights came up, no one spoke for a full minute. Defense counsel then repaired to a separate conference room — pointedly leaving their expert, Dr. Mowrer, behind.

The same group reconvened two weeks later to hear Sealed Air's rebuttal

presentation and to see if the two sides could agree on a settlement. They finally did. Twenty-five million dollars. The last defendant had settled, bringing the total of all settlements to \$176 million.

During the course of our research into the contribution of PE foam to the ferocity of the Station fire, I came to learn a remarkable irony about the PU/PE foam sandwich that had been applied to the walls of The Station: if the Julian PE foam alone had been showered with sparks from Great White's gerbs, it would not have caught fire, due to its closed-cell structure, smooth surface, and high density. But glue a piece of the Derderians' egg-crate PU foam on top of it, and the open cells, convolutions, and low density of the PU foam make it ideal to catch sparks, pyrolize, and burst into flame — then transfer its energy to the PE foam beneath it.

As it turns out, egg-crate PU foam is the *perfect kindling* for PE foam blocks. Without it, the PE foam would not have burned. But with PU foam glued on top of PE foam, it was preordained that The Station's walls would burn like the fires of hell.

CHAPTER 28

DIVINING THE INCALCULABLE

ON DECEMBER 27, 2007, a few months after the first civil defendant agreed to a settlement, Duke University law professor Francis E. McGovern met with an apprehensive group of thirty Station fire victims and families in an unused classroom of the Community College of Rhode Island. He wore a neatly pressed blue blazer, with his thinning, surprisingly long hair curling over its collar. Most of those present had never set foot in a college classroom, much less met a law professor. Bundled against the winter cold in sweatshirts and ball caps, they warily watched the man whose work would probably affect them for the rest of their lives. As this unassuming, bespectacled gentleman moved from table to table, working the room with his soft southern drawl, McGovern met the gaze and shook the hand (or what was left of victims' burned hands) of each person, briefly introducing himself.

"Don't worry. I'm not running for office," he assured them. "With a name like McGovern, you wouldn't, either."

Thus began the first of twenty-four such meetings held by Professor McGovern, part of a yearlong process that would eventually solve one of the knottiest problems arising from the Station tragedy: how to equitably distribute millions of dollars in settlement monies among hundreds of victim families.

From the moment the first civil defendant struck a settlement in principle with plaintiffs' counsel, it was clear that any defendant who wished to settle would only settle with *all* plaintiffs in *all* of the consolidated cases. Piecemeal settlements with only some plaintiffs would be unworkable for several reasons, the first of which was that settling defendants wanted to buy their peace once and for all, and the second, that the pool of settlement funds would never be enough to fully compensate all victims for their losses. If a race to trial and judgment by each plaintiff were to be avoided, some mechanism would have to be developed to divide whatever settlement monies were amassed.

Lawyers are prohibited by ethical rules from settling claims of multiple clients for an aggregate sum, because of the inherent conflict of interest when they allocate the settlement among their clients. Such a conflict would arise if a lawyer were to represent two injured automobile passengers suing their negligent driver. The lawyer

cannot accept an aggregate settlement from the driver and then divide it between his clients, lest he favor one over the other. Only with each of his clients' informed consent, after full disclosure of the other's injuries and settlement share, may such a settlement be ethically struck.

While this rule is sometimes honored in the breach, as in asbestos litigation (where plaintiffs' firms have been known to settle multiple cases wholesale and then conduct an ethically dubious parceling of the money among their multiple clients), the Station fire cases would require an objective allocation plan, developed by an officer of the court, in order to effect a global settlement. Even more critically, *every single plaintiff* would have to agree to the distribution plan, because no defendant was willing to settle with less than all plaintiffs. Since many Station fire victims understandably regarded their particular injuries as worse than anyone else's (and since they well knew that the total pool of money would be inadequate to fully compensate all), unanimous approval of any plan appeared highly unlikely.

Creation of an objective settlement distribution plan (and convincing all victims of its fairness) would require a "special master." Courts have the power to appoint individuals with special experience or training to be special masters. Acting as neutral officers of the court, special masters can examine the facts of a complex case and make recommendations to the court. Special masters may be accountants, scientists, or professors, depending upon the particular needs of a case. What was needed in the Station fire litigation was an individual experienced in developing distribution plans for mass tort settlements. The special master eventually appointed by Judge Lagueux was Professor McGovern. His résumé contained, to put it mildly, some relevant work experience.

McGovern had previously served as a court-appointed special master, or "neutral," in over fifty cases. His experience as a special master in products liability mass torts alone encompassed the fields of asbestos, silicone breast implants, intrauterine devices, and prescription drugs. McGovern even worked with the United Nations Compensation Commission to help distribute reparations for the Persian Gulf War.

Such special master assignments can often be quite lucrative, as in securities fraud settlements. However, at the time Professor McGovern was considering the job, the combined settlements totaled only \$13 million. McGovern took one look at the demographics of the Station fire victims, and, considering the modest pool of settlement money, offered to act as special master, charging only his out-of-pocket expenses. (Another candidate for the job asked to be paid \$250,000 for every three months he worked on developing and implementing a distribution plan.) While McGovern may not have chosen the word, his commitment to develop a plan without compensation represented a *mitzvah* of the first order (especially as contrasted with the *chutzpah* of the other candidate).

McGovern instructed the plaintiffs' attorneys at the outset that, ideally, any

allocation methodology for a mass tort settlement should be developed “from the bottom up” — that is, from victims’ input — early in the settlement process, long before it is known what the total fund will be. “That is the only way that victims will embrace a plan,” McGovern explained. The purpose of meeting with every family was to build consensus in this way — early on, from the ground up.

McGovern could have held one or two huge “informational meetings” with all the victims together, in a hotel ballroom. It certainly would have been easier on him. But he insisted, instead, on holding twenty-four separate sessions with twenty to thirty attendees each, so that he could meet with, and hear from, anyone who wished to speak. It was important, too, that the setting be spartan — an empty classroom donated by the state, rather than a posh (and seemingly wasteful) hotel conference room. The victims had to know that they played a vital part in an economical, and accessible, process.

Before each day of family meetings, McGovern fortified himself by visiting the site of the Station fire, where one hundred makeshift memorials had been erected. Over the two months of wrenching family meetings, he never lost sight of his work’s purpose.

The meetings were part lecture, part question-and-answer. Many of the attendees challenged the legal assumptions underlying an allocation plan. Yet McGovern patiently and gently bridged the social and educational gulf between himself and his audience, explaining the two competing objectives that must be served in any mass tort allocation plan.

Those two objectives are efficiency and fairness. The first, efficiency, is mandated because the costs associated with determining and distributing settlement monies cannot be permitted to consume the limited funds available. The second, fairness, is an absolute prerequisite to victim acceptance of any plan.

At one end of the spectrum, suggested McGovern, might be an allocation plan that simply took the total of monies available and divided it by the number of victims, giving each the same award. That would be very efficient, but not very fair. At the other end of the spectrum, he noted, would be hundreds of individual jury trials for every victim (and their derivative claimants), by the end of which there would be no money left for distribution. The latter would be fair, but unworkably inefficient.

McGovern proceeded to educate the Station families about different types of distribution plans used in the past to better serve both objectives. In the Dalkon Shield intrauterine device litigation, for example, an injury “grid” was developed, whereby particular injuries were awarded a fixed dollar amount. The grid box into which a plaintiff fell determined the amount of her settlement. Similarly, in asbestos settlements, injuries fell into fairly predictable groups: mesothelioma, lung cancer, asbestosis. However, there, a system was established whereby a particular injury was awarded “points” in an attempt to relate its severity to other injuries. Additional points

were added to reflect a victim's relatively young age, or the number/age of his dependents.

One advantage of a point system, the professor explained, is that it can be applied where the ultimate amount of the settlement fund is unknown. The points only establish relative values of injuries, not their absolute dollar values. This feature was important in the Station case, because at the time of his meetings, there was still only \$13.5 million dollars in tentative settlements from a few defendants.

The consensus of victim families attending the McGovern meetings was that a point system of some kind would best serve the dual objectives of efficiency and fairness, particularly because the final amount of the fund was unknown. That was the easy part. The devil, however, would truly be in the details. The unseemly calculus of attaching points to one person's death versus another's, to one person's burns versus another's — would test the patience and understanding of several hundred families in the months to come. Securing unanimous approval of a distribution plan required all the families to accept some unpleasant legal principles — and many just weren't buying.

McGovern necessarily based his distribution plan on the law of torts and, particularly, Rhode Island's law establishing who has standing to claim tort damages, and how those damages are calculated. For example, ninety-seven of the Station cases alleged that defendants negligently caused a loved one's death. They are called "wrongful death" cases. Few laymen appreciate that the right to sue another for wrongful death is entirely a legislative creation of each state (indeed, before Lord Campbell's Act in 1846, there existed no cause of action whatsoever for wrongful death at English common law), and that wrongful death statutes strictly limit who can sue, and how damages are calculated. McGovern would have to explain to several skeptical Station families how tort law values deaths of young married persons, or people with children, more highly than those of single, childless adults. To parents who lost an unmarried adult child in the fire, such legal concepts were anathema. "My daughter never even had the *chance* to marry or have children! Why is her death worth less?" demanded one bereaved mother.

Apparent inequities abound in the law — and would have to be accepted by all plaintiffs. They needed to understand that the law necessarily distinguishes among classes of persons who may, and may not, recover when someone dies. A surviving spouse has a claim for loss of her dead husband's society and companionship, but a longtime unmarried companion does not. In 2003, children of a decedent had a claim for loss of their parent's companionship — but only if they were under eighteen at the time of the parent's death. If a young man killed in the Station fire had fathered a child and never married, or divorced its mother, that child would be the *only* beneficiary of his wrongful death claim. (One unmarried man who was killed in the fire actually left a surprise sole heir — later confirmed by DNA testing — *in utero* at

the time of his death. Imagine explaining *that* to the man's parents, who, as a result of their unexpected grandchild, had no legal standing to sue for their son's death.)

Perhaps most difficult for families to accept was that, generally, the law of wrongful death damages in Rhode Island does not compensate families for their understandable grief; rather, it is a purely economic calculation, intended to replace the decedent's lost net earnings and services to his dependents.

From his many meetings with victims' families and plaintiffs' attorneys, McGovern developed a proposed plan of distribution, which he readily admitted was not perfect, but which, in his view, did rough justice for all. Under that plan, death claims started with a base award of one hundred points, for the decedent's pain and suffering, loss of earning capacity, and funeral expenses. To that figure were added points for each year that a victim was younger than the median age of persons killed in the fire, in order to reflect additional lost wages and life expectancy. If a decedent left behind a spouse, additional points were added; if he left minor children, yet more points. If he had unusually high earning capacity or education, there was further upward point adjustment.

Valuing personal injury cases was more difficult. From the outset, families of the dead had trouble accepting that catastrophic injuries have higher value in tort cases than do deaths. This apparent dichotomy reflects both the statutory limit on how death damages are calculated, and the practical fact that the appearance of a seriously burn-scarred survivor can translate into a mammoth jury award.

When McGovern initially set out, with the assistance of plaintiffs' counsel, to establish criteria for injury point awards, his early drafts attempted to take into account location of burns, degree of burns, percentage of body involvement, number of grafting operations, days of hospitalization, and character of permanent scarring. The result was an unworkably complex matrix with too much room for subjective opinion. Was a burned hand worth more than a scarred scalp? What if it were the victim's dominant hand? Is facial scarring on a single woman worth more than similar disfigurement of a married man? Is loss of a hand worth more than loss of an eye? (The entire exercise called to mind the silly insurance policies peddled to schoolchildren in the 1950s, in which loss of "one eye and one finger" had a different payoff from "one ear and one hand." Beyond their value as deterrents to playing with explosives and machetes, the policy pamphlets made for ghoulishly fascinating third-grade reading.)

What plaintiffs' counsel and their clients came to realize after several draft injury point plans had been considered, and rejected, was that the total amount of a victim's medical expenses bore a rough correlation to the severity and permanence of their injuries. Expensive hospital time directly mirrored the pain and suffering of burn debridement and skin grafting procedures. Rehabilitation stints closely paralleled residual disability and deformity. For this reason, the final McGovern plan came to

value personal injuries by awarding one point for every \$2,000 of medical expense incurred by the victim. All notions of suffering, scarring, and disability would be subsumed under the single measure of medical expenses. It was not perfect, but it was objectively verifiable and generally fair.

Verification of each victim's medical expenses would be performed under the McGovern plan by a court-appointed neutral verification expert, whose team of nurse-consultants was to examine each victim's completed claim form and supporting medical records. The appointed verification expert, Jeffrey Dahl of Minneapolis, Minnesota, was not to engage in subjective valuation; rather, he would simply determine how many points were supported by each claimant's medical records and verified family facts. Appeals from the Dahl calculations were limited under the McGovern plan to calculation errors only.

This unseemly translation of death and suffering into point values was performed with cold, mathematical accuracy by the Dahl team. But someone had to do it. The upshot of McGovern's and Dahl's work was a plan that finally, and objectively, attached relative values to each Station fire claim (including derivative claims of children and spouses). These values, expressed as percentages of the total of all points awarded to all claimants, could then be applied to whatever settlement fund the plaintiffs' counsel were able to amass at the case's conclusion.

Claimants may not have completely agreed with the legal concepts that determined their share, or with the relative valuations of various injuries and deaths. But to their credit, with \$176 million in play, even victims who disagreed with their share under the plan ultimately yielded their own self-interest to the common good. As a result, the McGovern plan was eventually approved by all plaintiffs and adopted by the court in 2008.

In his final report to the court, special master McGovern described how hard the process had been for the victims — and how well they conducted themselves in the end: “The meetings have been difficult for everyone,” explained McGovern, “because of a realization that no amount of money could possibly be adequate compensation for the horrors caused by The Station Fire. It has taken great fortitude for the beneficiaries and their families to even attend these meetings.” He concluded that, despite these difficulties, “they have comported themselves with poise, fortitude and united purpose.”

However, even after settlement had been struck in principle with every defendant, and the McGovern plan of distribution adopted, the consolidated Station fire cases could not be wrapped up without executed settlement agreements. Negotiations on a form of Master Release and Settlement Agreement to be signed by every plaintiff and defendant began in early 2009. A document acceptable to all parties did not emerge until November of that year.

Try getting two lawyers to agree on the provisions of a twenty-seven-page

document addressing timing of payments, case dismissals, indemnifications for Medicare and other liens, and possible complications like a constitutional challenge to Rhode Island's newly modified (and retroactively applied) joint tortfeasor contribution statute. Then, try getting *fifty* lawyers to agree to it — particularly when forty of them well know that final agreement means their defense billing juggernaut will soon chug to a halt. That the process *only* took eleven months is perhaps more surprising than the fact that it took that long.

As the seven-year anniversary of the fire approached, and an end to the litigation appeared possible, the victims still hadn't received any money. Several had been seriously burned. Many had lost family breadwinners. All had conducted themselves admirably in agreeing to a distribution plan that may not have been as generous as they wished. But still they persevered. And waited.

The last thing they needed was to be further victimized.

Yet, that is exactly what happened to some. With settlements in principle announced long before any monies could actually be disbursed to victims, a relatively new breed of shark smelled blood in the water and began to circle. They were the "litigation funding companies," or "LFCS." The genesis of the LFC business tells all one needs to know about the industry.

In the mid-1990s, Perry Walton was lending money at high interest rates out of his Nevada home through a business he called Wild West Funding. An undercover detective assigned to investigate complaints that the company threatened late-paying customers quoted Walton as telling him that he "worked for loan sharks," and "if you fuck with these people, you'll end up in the desert, dead." Walton denied ever threatening anyone, but, in 1997, he pleaded guilty to a charge of "extortionate collection of debt," and was sentenced to eighteen months' probation.

By 1999, Walton was back operating under a different business model. Called Future Settlement Funding Corp., it advanced money to plaintiffs in lawsuits at stratospheric rates, characterizing the transaction as an "advance" or "assignment of future proceeds" rather than a loan, in order to skirt state usury laws. The advance would only be collectible from the proceeds of the lawsuit; theoretically, if there were none, the "funding company" would not be repaid. Walton also hosted two-day seminars, charging as much as \$12,400 to teach would-be litigation financiers the ropes of the game. As of 2000, he had trained four hundred people in its finer points.

A present-day Google search under "litigation financing company" garners over 100,000 hits. The industry is unregulated in almost all states, and there are virtually no barriers to its entry, particularly since the advent of Internet advertising. The Wild West of funding now includes all points of the compass rose.

Typical contracts with LFCS provide for effective annual interest rates between 48 and 120 percent, depending upon whether minimum payment terms are enforced.

Spokesmen for LFCS publicly justify such abusive rates by citing the supposed “high risk” of litigation funding; however, because the industry is largely unregulated, no one knows just how risky it is — or isn’t. The CEOs of two LFCS have been quoted as admitting to 4 percent and 2 percent default rates, respectively — far below that of credit-card or other unsecured lending. One thing is certain — LFCS prefer “sure things.” They tend to target lawsuits in the “mid-resolution” stage, according to Harvey Hirschfeld, president of LawCash and chairman of an LFC industry trade group. They keep attorneys on staff to evaluate (and minimize) the risk of every case they get involved in.

Lawyers are barred by ethical rules from lending money to clients for their personal use. But the dirty secret of LFCS is that attorneys may be heavily involved in them, perhaps as silent investors, but definitely as case evaluators and contract enforcers. If lawyers enable lending, at usurious rates, to vulnerable litigants, then the spirit, if not the letter, of the ethical rule has been violated. What is needed, at a minimum, is for states to bring LFCS within the ambit of their usury laws, creating transparency and capping interest rates. When an industry that collects a 60 percent annual percentage rate from desperate victims has a mere 2–4 percent default rate, then there is something very wrong with the equation. Yes, the business is barely legal (a testament to the lobbying clout of this kind of money); but just because something *can* be done, does not mean that it *should* be done.

The long-pending settlements in the Station fire cases were like raw meat for LFCS. During the two years between settlement of all claims in principle and actual disbursement of proceeds under the McGovern plan, LFCS persuaded several cash-strapped plaintiffs, over their attorneys’ vociferous objections, to take “advances.” Some fire victims only took one or two modest advances, which did not greatly reduce their final net recovery in the case. One Station fire widow, however, took *thirteen* separate LFC advances over sixteen months, totaling \$80,500. In month seventeen, she had to repay \$137,777 under her LFC contract.

Annual percentage rate on the transaction: 64.7 percent.

CHAPTER 29

MEMENTO MORI

FIVE YEARS TO THE DAY AFTER THE FIRE, four shivering people, wrapped tightly in winter coats, have paused to reflect. They are standing on a tiny piece of ground, smaller than a house lot, where one hundred homemade crosses have been arranged in a rough oval, each with a white balloon tethered to it. At each cross there are attempts to individualize a memorial — photos of the deceased, or even votive candles. Other objects are left as reminders of a visit, including countless stuffed animals, bedraggled by wind, sun, and rain; poems; and angel figurines. On one cross hangs a construction hard hat.

A van from WPRI-TV Channel 12 idles in what remains of The Station's parking lot. Inside it, a cameraman and reporter keep warm until it's time for their stand-up, marking the fifth anniversary of the fire. It's doubtful, though, that the logo of Jeff Derderian's old TV station is something the mourners really want to see.

Against the hood of a parked car leans a street-corner preacher of sorts, dressed in black, a Bible at his side. He engages the visitors in comforting conversation. One asks if he lost anyone in the fire. "I feel that I lost all one hundred of them," the man of the cloth responds, with a trace of self-importance.

No offense is taken. In a state this small, all are permitted to mourn.

The ground at 211 Cowesett Avenue in West Warwick, Rhode Island, is considered sacred by many. Flanked by Barry Warner's house, a busy four-lane road, and a car dealership, this unlikely plot of land sprouted makeshift memorials from the moment the crime scene fence came down. The personal nature of the memorials maintained by loved ones at the site is a poignant reminder that the round number, one hundred, does a grave injustice to the individuality of the souls lost in the Station fire. It is too easy to simply refer to that terrible sum. It is much harder to read the memorial tributes, and study the biographies, of each victim.

The individual memorials at the Station site began as one hundred wooden crosses, assembled by an anonymous loved one out of tongue-and-groove flooring salvaged from the club's wreckage. Names of the deceased were carved or painted on each. Memento mori soon followed — and were supplemented as the seasons changed. Halloween pumpkins; Christmas decorations; Mardi Gras beads; in a Ziploc plastic bag, a greeting card addressed "to my son on his birthday." The odd-angled, slapdash

construction of many of the crosses strangely parallels that of the club where each of the victims perished.

A few years after the fire, someone installed one hundred solar-powered landscaping lights to illuminate the site at night — one at each makeshift memorial. The years, and elements, have since rendered each light useless, almost as if the ground there eventually kills everything on it. As much as anything, the site is a memorial to the impermanence of a life, and of the objects we choose to symbolize it.

A cross for Sandy and Michael Hoogasian occupies one spot up front, near the rutted parking lot. It is covered with smiling photographs of the couple. One visitor has added a kaleidoscope; another, sunglasses. At the memorial to Jeff Rader's girlfriend, Becky Shaw, lie a box of chocolates and a Valentine's Day card from her parents and brother. At Jeff Rader's cross, someone has inexplicably left waffles.

Many have chosen to wear Station fire memorials on their bodies. Dozens of fire survivors acquired tattoos in remembrance of those who did not escape the flames. Erin Pucino's entire forearm, covered in flames and crosses, is dedicated to those who fell behind her in the crush at The Station's front doors. She understands all too well just how close she came to their fate.

One Station patron, who narrowly escaped from the flames, restored a '59 Chevy Biscayne, transforming it into an antique red fire chief's vehicle, complete with dome light and siren. On its doors are lettered in gold leaf, "Rhode Island Station Nightclub Fire." Its trunk lid is covered with the names of all one hundred persons killed in the fire. Strange? Perhaps. Heartfelt? There can be no doubt.

Few expressions of grief at the Station site could be called traditional. Several were understandably angry. The father of one young woman killed in the fire commissioned a professionally lettered metal sign for the site, which read, "Our daughter's life [*sic*] was no accident. . . . It was a tragic event that could have been prevented!" Other less permanent, but no less strident, signs seethed anger at town officials for their part in the tragedy.

Profound loss often clouds judgment. One grieving parent took it upon herself to uproot the cross for Great White guitarist Ty Longley, who lost his life in the blaze. She left behind a scribbled note: "Ty and his band KILLED MY DAUGHTER . . . I'm sorry but Ty doesn't deserve to have a cross here. The killer isn't honored with thoes [*sic*] he killed. As many times as something goes up I will tear it down."

In truth, Longley was a mere session musician with no control whatsoever over the Great White tour, its venues, or its pyrotechnics. The guitarist probably died because he chose to follow his friend, Bill Long, toward the atrium windows, rather than exit with his bandmates through the nearby stage door. On the other hand, that mother's rage might more understandably be directed at Jack Russell himself, who controlled the tour in all respects, pyro included.

Russell's career continued apace following the fire. Seven years later, Great White

was still packing them in. Before an appearance at Neumeir's Rib Room and Beer Garden in Fort Smith, Arkansas (population 84,000), Russell, sans pirate bandanna and four inches of hairline, was asked by a local reporter how he and his band "found strength to soldier on after the tragedy." After pausing for dramatic effect, the front man explained, "The love of music helped us push forward. There is nothing like it, having so many people sing your songs and seeing all of the smiling faces in our fans."

The seating capacity of Neumeir's is two hundred.

One Station fire tribute, however heartfelt, was not without its irony. At a memorial service one year after the fire, Michael Kaczmarczyk, the lead singer for Human Clay, sang a Creed song. In the past, Human Clay had hired "Grimace" Davidson to shoot pyro on multiple occasions at The Station. With the same foam on the walls. And the same overcrowding. There, but for dumb luck, had gone Human Clay.

Even luckier, in the final analysis, was Jeff Derderian, whose criminal sentence was completely suspended following his no-contest plea. His brother Michael didn't exactly do hard time, either. He spent only two years and three months of his four-year sentence in medium security prison, then was paroled with time off "for good behavior."

A year after the fire, the brothers tried an interesting legal ploy, suing their own liability insurance company, claiming that it owed them the cost of their legal defense against the *criminal* charges. The Superior Court judge, not surprisingly, disagreed.

In yet another legal proceeding, the Derderians challenged a Workers' Compensation judge's ruling that they *personally* owed a \$1 million dollar fine for failing to carry workers' compensation insurance before the fire. The brothers dodged that bullet in 2004 when legal counsel for the state Department of Labor and Training opined that only the Derderians' (penniless) limited liability company, DERCO LLC, and not they, personally, owed the fine.

Less than a year after his early release from prison, and shortly before the seventh anniversary of the Station fire, Michael Derderian agreed to be a featured speaker, along with his brother Jeffrey, at a conference for amusement park operators and inspectors in Pennsylvania. Displaying stunning tone-deafness for music impresarios, the brothers chose as their presentation topic "safety in places of public assembly/amusement."

Within a week of announcing their speaking gig, the brothers abruptly canceled it, in the face of public outrage in their home state. It will probably be a little while before Rhode Islanders accept the idea of Michael and Jeffrey Derderian lecturing anyone on the subject of safety.

The only other person who was convicted of a crime in the Station fire, Great White road manager Dan Biechele, quietly served less than half his four-year prison sentence before being released on parole. Several relatives of Station fire victims

wrote letters to the parole board in support of Biechele's early release. One, Chris Fontaine, whose daughter died in the fire, observed, "He is the only one that I feel demonstrated any remorse whatsoever for what happened, and I didn't feel it was put on. It felt genuine." After doing his time, Biechele immediately moved back to Florida, preferring to put Rhode Island, and its horrific memories, as much in the past as possible.

The Station fire evoked an unprecedented outpouring of charitable giving in the state. Over sixty companies made in-kind donations during and after the relief efforts. The Station Nightclub Relief Fund was established, and \$200,000 was raised in its first forty-eight hours. When the fund reached \$2 million, its management was transferred to the nonprofit philanthropic Rhode Island Foundation. Additionally, the state Crime Victims Compensation Fund provided up to \$25,000 to each victim for proven economic losses.

It was inevitable that someone would try to game even this charitable system. One Station regular applied to the Crime Victims Compensation Fund for "medical expenses," "counseling" expenses, and "lost wages," despite the fact that his two companions' statements to the police placed him outside the club with them, safely across the street in the Cowesett Inn parking lot (fetching cigarettes from a car), when the fire erupted.

Would-be scammers aside, the fire was not without some positive aftereffects. The tragedy spurred improvements to Rhode Island's fire code. Business owners fought the changes, arguing (not without some merit) that merely enforcing existing fire and building codes would have prevented the Station tragedy. Nevertheless, even as the Coconut Grove fire spawned new restrictions on flammable decorative materials in public spaces, so, too, the Station fire gave rise to new regulations for owners of large clubs and function halls. To their credit, Rhode Island lawmakers ended the pernicious practice of "grandfathering" older places of public assembly that do not meet current code, requiring sprinklers in all gathering places with occupancies over three hundred, regardless of their vintage. That change alone may prove lifesaving for future generations.

Changes of a different kind occurred for several officials who played roles in the Station fire tragedy. West Warwick town manager and apologist-in-chief Wolfgang Bauer ("Our officials were doing their customary public duty in a conscientious way") was fired in December 2007 after he reportedly authorized purchase orders for a town project that exceeded its \$3.2 million budget by \$802,000. (Presumably, he, too, had been doing his "customary duty in a conscientious way.") Bauer sued the town, alleging wrongful termination, later effectively settling for his retirement pension.

Jay Kingston, the ME investigator who worked unassisted for seventeen hours managing the extrication and transportation of ninety-six burned corpses from The Station, returned to work right after the fire, declining any mental health assistance

and denying any problems. Kingston had long been an insulin-dependent diabetic, who kept his blood sugar well managed — right up until the fire. Then, in the summer of 2003, things began to change. It was harder and harder to keep his blood sugar within the normal range, even with adjustments to his insulin pump. His night vision deteriorated.

The one-year anniversary of the Station fire was a turning point for Kingston. Whenever the investigator opened his morning newspaper, there were retrospectives about the fire. When he turned on his car radio, all talk was about the fire and its aftermath. If he clicked his TV remote, he was bombarded with images long suppressed in his memory. Kingston began to decompensate into profound post-traumatic stress syndrome. Within weeks, his blood sugar became absolutely uncontrollable. With additional insulin, his count would sometimes paradoxically *increase*. As a result, Jay developed an intractable condition in his right eye called flash neovascular glaucoma. By the following August, the eye could not be saved. Kingston now wears a glass prosthesis in its place. He joins Joe Kinan, the most severely burned fire survivor, in an unfortunate distinction — each lost an eye to the Station fire.

Kingston's boss, Chief State Medical Examiner Elizabeth Laposata, MD, who never found it necessary to report to the Station site, resigned her position in June 2005 after a Health Department investigation discovered that reports were never written for hundreds of autopsies. Her successors have been more willing to actually attend crime scenes, and file paperwork.

Notwithstanding Dr. Laposata's apparent reluctance to view dead bodies in situ, she found employment in 2010 as medical adviser to a television show, *Body of Proof*, about a crime-solving female medical examiner. Her job entailed advising makeup artists on how to depict gruesome injuries.

West Warwick town building official Stephen Murray, who last inspected The Station just two months before it burned, was fired one day short of the fire's fifth anniversary. According to the *Providence Journal*, the town council's unanimous vote to terminate him on February 19, 2008, took "less than two minutes," with "no discussion" and "no rebuttal." Better late than never, one would suppose.

West Warwick fire chief Charles D. Hall ("Our inspector missed nothing. They were in compliance.") retired from his job in January 2008, to manage a fire and rescue squad at the state airport.

Even more complex retirement plans were carried out by Denis Larocque, the West Warwick fire marshal who overlooked flammable foam on The Station's walls during multiple inspections, and increased the club's permitted capacity from 258 to 317, then to 404, at the request of Michael Derderian. In 2005, Larocque voluntarily left the fire marshal's job and returned to actual firefighting, remaining a battalion chief in the West Warwick Fire Department. About that lateral move, Chief Hall gushed,

“[Larocque] was doing a good job where he was, and he’ll do a good job where he is.” (Hall did not elaborate on what might constitute doing a *bad* job of fire inspection in West Warwick.)

Then, in mid-2006, Larocque began a period of absence from his job for a “job-related injury.” Eighteen months later, he applied for a permanent disability pension, which, under his union contract, would pay him two-thirds of his salary for life, tax-free, with proportional future increases as active firefighters’ salaries rose. The contract also provided that grant of his disability pension could not be challenged, because Larocque had been out on disability for eighteen continuous months. “After 18 months, there’s nothing the Pension Board can do to disallow a disability pension. It becomes automatic,” explained the chairman of West Warwick’s pension board, Geoffrey Rousselle. According to Rousselle, the responsibility for monitoring Larocque’s medical condition during his eighteen months on disability, to determine whether he was actually disabled, fell to the town manager and the fire chief — Wolfgang Bauer and Charles Hall.

Barry Warner, the American Foam Corporation salesman and next-door neighbor of the club, left his job at American Foam more than a year before the fire. His house can be seen through a thin stand of trees, just behind the oval of one hundred tilting crosses at 211 Cowesett Avenue. It’s hard to say whether Warner’s property was previously more devalued by a loud rock club next door or, presently, by the quarter-acre of makeshift memorials to horror.

Warner’s grim front-yard tableau brings to mind the U.S. government’s acquisition of Confederate general Robert E. Lee’s homestead in Arlington, Virginia, for use as a national cemetery during the Civil War. In August of 1864, the Union buried twenty-six bodies along the edge of Mrs. Lee’s rose garden, in close proximity to the mansion, “rendering it undesirable as a future residence or homestead.” Thousands more followed, along with a tomb for unknown Civil War dead, right *in* the rose garden itself. The Lees never returned to their family home.

On any given day, several people stop by the site of the Station fire. The loudest sound is the soft crunch of their footfalls in the gravel bordering the one hundred victim memorials. Visitors speak in respectful, hushed tones.

Barry Warner still owns the house directly behind the Station site. And, in one small, completely unintended way, he has gotten his wish.

It is very, very quiet there now.

EPILOGUE

CHANGE WAS INEVITABLE FOR THE VICTIMS of the Station fire. The tragedy left some physically scarred, but mentally strong. Others, who were spared serious physical injury, remain ravaged by post-traumatic stress syndrome. Specific individuals' resilience in the aftermath of the event has been completely unpredictable. Many have bounced back, but for others the fire remains the single defining event of their lives.

Linda Fisher, who made her escape through an atrium window of the club, underwent multiple surgeries in the months and years after the fire. Her arms bear deep burn scars, but she wears them like a badge of courage. Sleeveless tops and motorcycle leathers remain part of her wardrobe. Linda has not let her injuries slow her down or diminish her self-esteem. Divorce and remarriage followed the fire, but so did a new house and a new life.

Harold Panciera, who appears on the Brian Butler video with an unconscious man over his shoulder, now sells oceanfront real estate in Narragansett, Rhode Island. He still looks like he could hoist a two-hundred-pounder on his back — when he's not building custom motorcycles, his new post-fire avocation.

Gina Russo, who with her boyfriend Fred Crisostomi was turned away from the band door by a Station bouncer, still bears the physical scars of her ordeal. But she's back to work as a medical secretary and performs volunteer work for the Phoenix Society, a national support group for burn victims. Her recovery was facilitated by a new love in her life. Gina and he were married in 2007.

Shamus Horan, who pulled multiple victims to safety through the club's windows, still pursues his hobby of off-road four-wheeling (in vehicles he's modified himself) when not working as a union pipefitter. Construction jobs like his have been hard hit by the recession. But Horan and his wife continue to count their blessings. She, too, escaped The Station's flames. They married not long after the fire.

Peter Ginaitt, the registered nurse / rescue captain who codirected the successful triage and transportation of 188 victims on the night of the fire, retired from the Warwick Fire Department and took a position as director of emergency preparedness for the state's largest hospital network. He left his elected position of state representative in 2007. It's not known whether Ginaitt will run for higher office in the future, but if he does, he'll certainly be a lock for those 188 votes.

Mickey Mikutowicz, whose squirreling of discarded polyethylene foam blocks from 1996 enabled the Station fire victims to recover an additional \$25 million dollars in settlement from Sealed Air Corporation, continues to ply his landscaping and snowboard instructor trades by day. By night, his tribute band, Believer, still appears

at New England clubs, where Mickey's uncanny resemblance to Ozzy Osbourne puts him in good stead.

Gina Gauvin, the breeder of pet reptiles, was released from an acute-care hospital to a rehabilitation hospital two months after the fire. She had spent the first six weeks after the fire in a medically induced coma. When Gina finally emerged from the Rehabilitation Hospital of Rhode Island in late July 2003, she was horrifically scarred, but her spirit was clearly unbroken. Surgeons had constructed a rudimentary thumb and fingers from the remainder of her right hand. Her left hand was amputated at mid-forearm. Fortunately, Gina's bright-red hair remains so thick that she can brush it over the skin-grafted areas covering half her scalp.

Gina's children are now ten years older, and she is a recent grandmother. She lives independently and still cares for her beloved lizards. Born left-handed, Gina now paints with her right hand. Life will never be the same for her. But she is very grateful for that life. "I'm one of the lucky ones," Gauvin observes.

My need to write about the fire, and its human and legal aftermath, became apparent when the criminal and civil actions resolved without trials, leaving the public clamoring for "answers." I knew that most of the answers were contained in public records. However, the sheer volume of those records made marshaling the evidence daunting for any but the most committed researcher. To use an unfortunate phrase in the context of this case, making sense of it all was like trying to drink from a fire hose. Having worked on the legal aspects of the case, however, I had a framework for organizing that surfeit of information into a comprehensible work. At least, that was my objective.

The mere telling (or retelling) of interesting stories, however, is not a very lofty goal if no useful lessons can be drawn from them. A tragedy like the Station fire should, if nothing else, force us to examine how we conduct our lives and businesses. Work on the case, and the book, certainly caused me to do so.

I came to realize that every day we make unconscious calculations, balancing the risks of our actions against their potential benefits. Sometimes we incur risk on our own behalf, reaping the benefits, or suffering the consequences, personally. At least that's what we tell ourselves.

But, as often as not, the equation is skewed. Potential benefit is all ours (a saved minute or two in travel, a saved dollar or two in safety precautions not taken), but the risk falls disproportionately upon others. In such situations, it's easy for us to take risks.

I believe that our risk/benefit calculating is rarely done on a conscious level. It is often born of habit — habitual speeding; habitual corruption; habitually running a business "on the cheap" so as to eke out every last dime of profit. Only when disaster strikes, and others take the fall, do we ever stop to do the math.

Legal scholars, like the famous Judge Learned Hand, have attempted to describe reasonable conduct as that in which the societal benefit of an activity is greater than its risk. But risk to whom? And judged at what point in time? Hindsight may be 20/20, but is it fair to view the acts and omissions of players in the Station fire tragedy in this way? I would suggest that it is eminently fair, and a necessary exercise, lest history repeat itself.

It's often said that disasters of the scope of the Station fire do not occur because just one thing is done wrong; rather, they are usually the result of many mistakes. That was certainly true here. The fire was a result of multiple tragic acts, *the absence of any one of which would have avoided the tragedy*. My list of causative blunders is a long one, and can, no doubt, be supplemented:

- ✓ illegal use of pyrotechnics, unsuited to the venue, by unlicensed personnel
- ✓ improper use of foam plastic insulation as sound insulation on interior walls
- ✓ overcrowding of the club allowed by owners
- ✓ absence of safety devices such as automatic sprinklers
- ✓ lack of training for club employees
- ✓ issuance of inflated maximum building occupancies by fire inspector
- ✓ nonenforcement of fire codes by inspectors
- ✓ design of entranceway with pinch point inhibiting rapid egress
- ✓ manufacturers' failure to warn of their products' foreseeable misuse
- ✓ promoters' failure to observe hazards presented by the Great White tour in previous appearances

Every one of the above failures was motivated, at least in part, by greed. Whether the selling of cheap pyrotechnic spectacle by Great White, or the wringing of every last buck from a run-down bar by the Derderians, it all came down to money. And, when each player made his unconscious calculation to sacrifice others' safety for profit or convenience, tragedy ensued, necessitating the yet more ghoulis arithmetic of the civil justice system.

I was struck, though, and strangely encouraged by a corollary of the above calculus. That is, that *just one person or corporation doing the right thing can make all the difference* in a given situation. At The Station, it could have been Fire Marshal Larocque citing the flammable foam on the club's walls, or Great White forgoing illegal pyro. More generally, one club owner's installing sprinklers instead of a larger sound system; one manufacturer's clearly warning of its product's dangerous properties, instead of hiding behind dubious test results — just one person acting reasonably, rather than greedily, can often avoid catastrophe.

Events after the fire, however, were disheartening, demonstrating that we can be

woefully slow learners in these matters. Less than two years after the Station fire, the Cromagnon Republic nightclub in Argentina went up in flames when pyrotechnics ignited furnishings, killing 175 young people. Then, in January 2009, sixty-one New Year's revelers lost their lives in a Bangkok nightclub after fireworks ignited its ceiling. Most were crushed near the club's front doors. In December of that same year, a fire in a Russian nightclub, also ignited by pyrotechnics, killed 109 people. Overcrowding, poor exits, and indoor fireworks all played roles in these tragedies; yet no one bothered to learn from mistakes of the past.

It was even more discouraging to learn that corporations appear to have short institutional memories. A current Google search of "soundproofing foam" yields several websites that still brag of their plastic foam's "testing Class A-1, *non-flammable*, under ASTM E84," the notorious Steiner tunnel test, which was the subject of the 1974 FTC consent agreement with the Society of Foam Plastics Industries. That agreement stressed that the Steiner tunnel test does not accurately predict the flammability or flame spread of foam plastics "in actual fire conditions." Under the agreement, the plastic foam manufacturers agreed not to use terms like "non-burning" or "self-extinguishing," based on the test. So, why are sellers in 2010 still calling their foam products "non-flammable" under that discredited test? I would guess that if you asked their management about the 1974 consent agreement, they'd have not the slightest idea what you were talking about.

When it comes to protecting the public from dangerous products, the answer cannot lie exclusively in government regulation. Rather, the civil justice system must provide a necessary backstop and sharp reminder that manufacturers will be held accountable when defectively labeled or misleadingly sold products cause tragic events.

I hope that the evidence marshaled in this book will help readers form their own answers to questions left open when the criminal and civil cases settled. However, as I've discussed the case with friends over the years, they often ask, "Well, what do *you* think really happened?" To the extent that any reader cares about my answer, I would offer the following purely personal opinions. In so doing, I'll summarize the evidence on which I rely. Again, they're only my personal opinions, and other persons — especially the participants themselves — may strenuously disagree.

One of the first questions to arise after the fire was whether The Station's owners gave Great White permission to use pyrotechnics. (The question itself is potentially misleading, because a literally true negative answer does not end the relevant inquiry.) The key evidence bearing on this issue is that the band's tour manager, Dan Biechele, immediately explained to investigators how he and Mike Derderian had discussed pyro in a phone conversation to "advance" the Station gig. Biechele's day sheet for the venue, seized from his computer right after the fire, read, "Pyro: Yes," consistent with permission having been given in that phone call. At other venues on Great White's tour, where permission was denied, pyro wasn't used.

More important, the overwhelming weight of the evidence is that the Derderians and their employees had long permitted pyro to be used by *other* bands at The Station. In fact, Dan Biechele had personally shot pyro there with W.A.S.P. just two years earlier. Even if permission for Great White to use pyro on the night of the fire was not explicit, then it was at least implicit from past practice at the club. That the club's owners historically tolerated and even encouraged pyrotechnics at The Station cannot be refuted. It appears on several videotapes. Perhaps most surprising is that a pyrotechnic-sparked fire did not happen there years earlier.

Another central question in the tragedy was whether Denis Larocque had a good-faith basis in the state fire code for increasing the club's capacity to over four hundred at the request of Michael Derderian. Its answer can probably be found in Larocque's designating the entire building as "standing room" when state law explicitly limits that designation to "only that part of a building directly accessible to doors for hasty exit." In my opinion, the fire marshal's unprecedented use of the standing-room designation for the *entire building* could not possibly have been undertaken "in good faith," as I understand the term.

The same may be said for Larocque's failure to "notice" nine hundred square feet of flammable egg-crate polyurethane foam covering the west end of the club, including the very door that he cited on multiple occasions for opening inward. Larocque would have had to reach *through a hole in the foam* in order to open that door. By my interpretation of the phrase "good-faith effort," his repeatedly overlooking the foam cannot possibly measure up.

But why did Larocque cite other, less significant, code violations, while he let the "solid gasoline" on the walls slide? I would suggest that he might have done so because the other violations were all correctable without shutting down the club's core business: loud music. The Derderians probably saw that foam, which had been purchased through next-door homeowner Barry Warner, as their key to neighborhood peace (and, thus, the club's continued operation). The foam simply had to stay — at any cost. (An even simpler explanation would be that Larocque's citing relatively minor violations, while he let the deadly foam pass, made it look like he was doing his job in at least some respect.) We'll never know all the reasons Larocque ignored the foam. His grand jury testimony is certainly of no help.

Another question posed after the tragedy was, "Why did so few people make use of the band door exit?" Two pieces of evidence shaped my belief in this regard. First, several witnesses credibly recount how, during the critical first minute of their ninety-second escape window, one or more club bouncers turned them away from that door, insisting that it was "for the band only." Second, and equally important, was the natural disinclination of club patrons to head toward the flames on the club's west wall, which quickly spread over and around the band door. This in itself may provide an explanation for Jeff Rader's mysterious photo, in which he appears frozen in the

face of an impossible choice: join the immovable crowd facing the club's front doors, or turn toward the flames behind him.

When I oversaw testing of the polyurethane and polyethylene foams at the Western Fire Center in 2008, my instinct to escape from the source of radiant heat was overwhelming. Within the first minute of each burn of a foam-covered room corner, I was literally driven back several feet from the area of the hood calorimeter by the heat flux. I tried to imagine myself on the dance floor or in the atrium area of the club on the night of the fire, and whether I would have been able, first, to appreciate that escape from the club's front doors was impossible (very difficult to perceive from that location), and, second, to head *toward* the source of the intense radiant heat to exit through the band door. In retrospect, it is small surprise that so few patrons were able to do so.

A final important question from the fire is a more general one. In studying the Butler videotape, I was struck by the fact that some people responded bravely to the unfolding crisis, while others seemingly froze. Why? The assumption is that behavior in such a situation is a matter of simple choice. But might it just reflect ingrained character traits?

According to Julie Mellini, Jeff Derderian's instinct, when she handed him her back-bar cash box in front of the building, was to disappear for a minute; this, while screaming patrons were breaking windows to escape from the front of the club. (A cash box was later found stashed in a snowbank behind the club.) Similarly, Brian Butler continuously shot video for six and a half minutes before putting his camera down to breathlessly phone his TV station that he "had gotten it all on tape." By contrast, people like plumber Shamus Horan reached through broken windows to drag victim after victim from the inferno. It may just be that some people are born to selfless heroics, or simply conditioned, by example or even military service, to respond decisively in emergency situations.

Five years after the fire, Shamus Horan, who is seen on the Butler tape pulling six or seven victims to safety through broken windows, was taking a morning drive near his home in Coventry, Rhode Island, with his little girl in the car, when he saw tire marks that left the pavement and headed off into the woods. "Another drunk last night," mused Horan. But as he slowed for the turn himself, he heard a small voice crying, "Help us! Help us!" Then he spotted a car, off the road, overturned and partially submerged in a rain-swollen brook. He pulled over and told his daughter that he'd be right back.

Wading into the cold water, Horan could see the lower half of a woman's body, belted into the driver's seat, with head and chest submerged. The cries were coming from a toddler, strapped into a rear child seat, who had managed to twist so that her head was just above the water's surface.

Struggling with her three-point harness, Shamus was able to free the driver and drag her blue, lifeless body to the riverbank. He then returned to the car, where he unbuckled the crying girl from her car seat and handed her, uninjured, to a woman who had stopped at the scene. Horan waded back to the car, groping about in the wet blackness to make sure no one else was trapped.

Satisfied that no other victims remained in the vehicle, the exhausted rescuer trudged back to shore and gazed down at the woman lying motionless at his feet. Horan had been raised on a farm. He'd cared for birthing calves and dying animals. He thought he knew life and death when he saw them. But the woman who had helped him with the toddler said, "I think she's alive!"

At that instant, the thought that he was standing by, and not helping someone who just might have a chance, appalled Horan. He began frenzied CPR. Clear an airway. Chest compressions. Mouth-to-mouth. Miraculously, the blue form stirred, coughed, spit up water . . . and began breathing. Two days later, Horan accepted the woman's personal thanks from her hospital bed. She recovered completely.

Years have passed, and Shamus Horan occasionally sees the woman from the accident, walking past his house with her granddaughter. All three smile and wave. It means much more to the humble pipefitter than the engraved hero's plaque that was presented to him by the Town of Coventry.

None of us knows how we might react to imminent peril to ourselves or others. We'd like to think that we would act swiftly, appropriately, and decisively. However, it's probably not even a matter of choice, but one of nature. We can only hope that if that terrible day comes, our nature will help us rise to the challenge.

ACKNOWLEDGMENTS

THIS BOOK WOULD NOT HAVE BEEN POSSIBLE without the meticulous research of Jenna Wims Hashway, who examined thousands of documents in order to locate all the important stuff. Her editing of chapter drafts was, thankfully, both helpful and humane.

Sincere praise is also due the many newspaper reporters who covered the Station nightclub fire. From the moment their police radio scanners first crackled with the news, up to and through its legal aftermath, *Providence Journal* reporters, photographers, and editors upheld a proud tradition, earning Pulitzer Prize finalist honors for the *Journal's* outstanding coverage of the tragedy. The *Boston Globe* and *New York Times* also provided valuable secondary source material. *Killer Show* simply could not have been written years after the event without those journalists' outstanding work under fire and on deadline.

Several people generously educated me in their areas of expertise as the project took shape. All accurate information on those subjects is theirs; any mistakes, mine. On the subject of crowd behavior in fires, the late Professor Guylene Proulx provided valuable insights; on forensic archaeology, Dr. Richard Gould; on fire science, the late Robert Brady Williamson; and on criminal procedure, attorney Robert Mann.

Many thanks to Jeff Drake of Drake Exhibits for his rendering of the Station floor plan used in the book. His accurate diagrams of the club's construction were invaluable during the civil litigation. William White Legal Photography provided critically important images in support of the cases. Also, Tim Kenny of Power Showz Inc. furnished incomparable audio-visual support for several of the mediations.

My sincerest thanks and admiration go to Professor Francis McGovern of Duke University School of Law, whose selfless work enabled fair allocation of settlement proceeds among the Station fire victims. His unfailing professionalism and empathy remain an inspiration to me.

Successful prosecution of the civil cases arising from the fire could not have been accomplished by any single attorney or firm. It was a team effort of the Plaintiffs' Steering Committee. Attorneys who worked on that committee, in alphabetical order, were John Barylick, Stephen Breggia, Patrick Jones, Eva Mancuso, Mark Mandell, Steven Minicucci, Charles Redihan, Michael St. Pierre, Peter Schneider, and Max Wistow. Additionally, mediator Paul Finn helped facilitate settlements with several major defendants.

Thanks so much to Aaron Priest and Lucy Childs Baker of the Aaron Priest

Literary Agency, who were strongly supportive of this project from the outset. Stephen Hull, acquisitions editor at the University Press of New England, was instrumental in making a welcoming home for this book at UPNE. Thank you, Steve, and editor-in-chief Phyllis Deutsch, for this privilege.

To my early readers, Sally Barylick, Raphael Boguslav, Mary Ann Kesson, John and Ginny Bunnell, Holly and Steven Massey, and Bill Griffith—thanks for your wonderful encouragement and suggestions. To Jean Skeffington and Laura Jensen, who insisted early on that “these stories must be told,” thank you for lighting a proverbial fire under me.

To Wilbur, my yellow Lab, who understands that on late writing nights, bedtime only really begins after the four-tone Windows “shutdown sound,” thanks for warming the floor at my feet those three years. Good boy!

And to Marie, Chris, and Anne, who have far more patience with me than one may fairly ask of a family, thank you for reading each chapter hot off the press and gently steering me right.

Finally, I would ask a moment of silence for all victims of the Station nightclub fire and their families. This is their story, not mine. In a book this length, only some of their experiences can be described, and those, admittedly, imperfectly. The few victims whose stories appear in the book are representatives of a much larger class, whose members’ cumulative suffering cannot be adequately portrayed in any book or books. For those families, the book will never be closed.

APPENDIXES

PERSONS KILLED IN THE STATION NIGHTCLUB FIRE

Louis Alves, 33
Kevin Anderson, 37
Stacie Angers, 29
Chris Arruda, 30
Eugene Avilez, 21
Tina Ayer, 33
Karla Bagtaz, 41
Mary Baker, 32
Tom Barnett, 38
Laurie Beauchaine, 35
Steve Blom, 40
William Bonardi, III, 36
Richard Cabral, Jr., 37
Kristine Carbone, 38
William Cartwright, 42
Edward Corbett, III, 31
Michael Cordier, 32
Alfred Crisostomi, 38
Robert Croteau, 31
Lisa D'Andrea, 42
Matthew Darby, 36
Dina DeMaio, 30
Albert DiBonaventura, 18
Christina DiRienzo, 37
Kevin Dunn, 37
Lori Durante, 40
Edward Ervanian, 29
Thomas J. Fleming, 30
Rachael Florio-DePietro, 31
Mark Fontaine, 22

Daniel Frederickson, 37
Michael Fresolo, 32
James Gahan, IV, 21
Melvin Gerfin, Jr., 46
Laura Gillett, 32
Charline Gingras-Fick, 35
Michael Gonsalves, 40
James Gooden, Jr., 37
Derek Gray, 22
Skott Greene, 35
Scott Griffith, 41
Pamela Gruttadauria, 33
Bonnie Hamelin, 27
Jude Henault, 37
Andrew Hoban, 22
Abbie Hoisington, 28
Michael Hoogasian, 31
Sandy Hoogasian, 27
Carlton Howarth, III, 39
Eric Hyer, 32
Derek Johnson, 32
Lisa Kelly, 27
Tracy King, 39
Michael Kulz, 30
Keith Lapierre, 29
Dale Latulippe, 46
Stephen Libera, 21
John Longiaru, 23
Ty Longley, 31
Andrea Mancini, 28
Keith Mancini, 34
Steven Mancini, 39
Judith Manzo, 37
Thomas Marion, 27
Jeffrey Martin, 33
Tammy Mattera-Housa, 29
Kristen McQuarrie, 37
Thomas Medeiros, 40
Samuel Miceli, Jr., 37
Donna Mitchell, 29

Leigh Ann Moreau, 21
Ryan Morin, 31
Jason Morton, 38
Elizabeth Mosczynski, 33
Katherine O'Donnell, 26
Nicholas O'Neill, 18
Matthew Pickett, 33
Carlos Pimentel, Sr., 38
Christopher Prouty, 34
Jeffrey Rader, 32
Theresa Rakoski, 30
Robert Reisner, 29
Walter Rich, 40
Donald Roderiques, 46
Tracey Romanoff, 33
Joseph Rossi, 35
Bridget Sanetti, 25
Rebecca Shaw, 24
Mitchell Shubert, 39
Dennis Smith, 36
Victor Stark, 39
Benjamin Suffoletto, 43
Linda Suffoletto, 43
Shawn Sweet 28
Jason Sylvester, 25
Sarah Telgarsky, 37
Kelly Vieira, 40
Kevin Washburn, 30
Everett Thomas Woodmansee, III, 30
Robert Young, 29

Source: "The Station" (Memorial Biography edition),
Providence Journal, March 20, 2003.

OUTCOME OF CRIMINAL PROSECUTIONS

DAN BIECHELE Pleaded guilty to one hundred counts of involuntary manslaughter; sentenced to fifteen years' imprisonment, of which eleven years were suspended; thus, four years "to serve." He was paroled after serving sixteen months.

MICHAEL DERDERIAN Pleaded nolo contendere to one hundred counts of involuntary manslaughter; sentenced to fifteen years' imprisonment, of which eleven years were suspended; thus, four years "to serve." He was paroled after serving twenty-seven months.

JEFFREY DERDERIAN Pleaded nolo contendere to one hundred counts of involuntary manslaughter; sentenced to ten years' imprisonment, all of which were suspended; ordered to perform five hundred hours of community service.

JACK RUSSELL Never charged.

DENIS LAROCQUE Never charged.

OUTCOME OF CIVIL LAWSUITS

Defendants in the consolidated civil actions who contributed toward global settlement:

ABC Bus Inc. and Superstar Services LLC	\$500,000
American Foam Corp.;	\$6,300,000
Jo-Ann DerManouelian,	
Everett Marabian,	
Paul Plourde in their capacity as executors of the estate of Aram Dermanouelian;	
Barry Warner	
Anheuser-Busch Incorporated;	\$5,000,000
Anheuser-Busch Companies Incorporated;	
Busch Entertainment Corporation;	
Busch Media Group Inc.	
Celotex Corporation	\$1,500,000
Clear Channel Broadcasting Inc.:	\$22,000,000
WHJY Inc. and Capstar Radio Operating Co.	
High Tech	\$6,000,000
Special Effects Inc.;	
Luna Tech Inc.	
JBL Incorporated	\$815,000
f/k/a James B. Lansing	
Sound Incorporated	
d/b/a JBL Professional	
Joseph LaFontaine d/b/a	\$1,000,000
New England	
Custom Alarm	
LIN Television Corporation;	\$30,000,000
TVL Broadcasting of Rhode Island, LLC;	
LIN TV Corp.;	
TVL Broadcasting Inc.;	
STC Broadcasting Inc.;	
Brian Butler	
McLaughlin & Moran Inc.	\$16,000,000
Polar Industries Inc.;	\$5,000,000
Home Depot USA Inc.	
Leggett & Platt Incorporated;	\$18,200,000
Leggett & Platt	
Financial Services Co.	

General Foam Corporation; GFC Foam, LLC; PMC Inc.;	\$11,250,000
PMC Global Inc.	
Wm. T. Burnett & Co. Incorporated; Wm. T. Burnett Management Inc.;	\$300,000
Wm. T. Burnett & Co.;	
Wm. T. Burnett Operating, LLP	
FFNC Inc.	\$250,000
Sealed Air Corporation;	\$25,000,000
Sealed Air Corporation (US)	
Triton Realty Limited Partnership;	\$5,000,000
Triton Realty Inc.;	
Raymond J. Villanova;	
Framingham-150 FR Realty Limited Partnership;	
Seekonk-226 Limited Partnership;	
Frances A. Villanova	
Town of West Warwick;	\$10,000,000
Denis Larocque;	
Stephen Murray;	
Anthony Bettencourt;	
Malcolm Moore	
State of Rhode Island;	\$10,000,000
Irving Owens	
Jack Russell	\$1,000,000
Jack Russell Touring Inc.;	
Paul Woolnough;	
Manic Music Management Inc.;	
Knight Records Inc.;	
Daniel Biechele;	
Mark Kendall;	
David Filice;	
Eric Powers	
DERCO, LLC	\$813,218.32
Jeffrey Derderian	
Michael Derderian	
Essex Insurance Company	\$100,000
Underwriters at Lloyd's, London	\$100,000
Surplex Underwriters Inc.	\$35,000
V. B. Gifford & Company Inc.	\$7,500
Gresham & Associates of R.I. Inc.; and Gresham & Associates of Rhode Island Inc.	\$10,000
Anchor Solutions Company Inc.	\$10,000
Howard Julian;	\$3,000
HJJ Productions Inc. and La Villa Strangiato Inc.	

\$176,193,718.32

NOTES & SOURCES

PREFATORY NOTE CONCERNING SOURCES FOR THE BOOK

After pleas of guilty and nolo contendere were entered by Dan Biechele and the Derderian brothers, the *Providence Journal*, the Associated Press, and the *Boston Globe* filed a public records request for the Rhode Island attorney general's entire file concerning the Station nightclub fire. In an unprecedented concession to public disclosure, on November 29, 2006, Attorney General Patrick C. Lynch released more than three thousand pages of documents, photographs, and transcripts of grand jury proceedings, uploading all to a publicly accessible website maintained by his department. Included in the materials were hundreds of witness statements and sworn testimony of key players in the tragedy. The attorney general also made his entire file of these documents (edited for privacy and sensitivity) available at no cost to anyone furnishing his department with a computer hard drive for receiving the data. For at least three years thereafter, the *Providence Journal* provided links on its own website to the attorney general's materials, indexing them according to persons of particular interest, but also providing a portal to all of the AG's materials.

This trove of first-person accounts was extensively used in researching *Killer Show*. Where a source citation is to a "witness statement," "grand jury testimony," or a document contemporaneous with the fire, that source was contained in the materials publicly released by the attorney general and available on his website for multiple years. Where a source citation is to a pleading in the Station fire civil litigation, such document was a public record in the United States District Court for the District of Rhode Island, available in hard copy through the court clerk, or electronically through the court's PACER system of document retrieval. The Brian Butler videotape of the fire was, similarly, available to the public for several years on DVD through the federal court clerk's office as an exhibit to pleadings filed in the consolidated civil cases.

Additionally, the U.S. Department of Homeland Security's Office for Domestic Preparedness hired the Titan Corporation to prepare an "after-action report" on emergency response to the fire. That document was extremely valuable in reconstructing official response to the event. Finally, the National Institute of Standards and Technology (NIST), part of the United States Department of Commerce, produced a multivolume report on the causes of the fire and the inability of many patrons to escape. That report, also available to the public, was used in researching

Killer Show.

Personal interviews provided additional material for the book; however, several key individuals declined the author's request to be interviewed. They were Jeffrey Derderian, Michael Derderian, Dan Biechele, Denis Larocque, Jack Russell, and Irving ("Jesse") Owens.

1. SIFTING THE ASHES

- 1 *Only snippets of conversation among the firefighters* Karen Lee Ziner and Zachary R. Mider, “Many Feared Dead, Scores Injured, as Fire Rips through West Warwick Club,” *Providence Journal*, February 21, 2003.
- 1 *By late morning, over one hundred of them* Scott MacKay and Alex Kuffner, “Nation’s Media Coverage Converge on Town,” *Providence Journal*, February 22, 2003.
- 2 *During the first daylight hours, news helicopters* Titan Corporation, “The Station Club Fire After-Action Report,” under contract to the Office for Domestic Preparedness, U.S. Department of Homeland Security (hereafter cited as Titan Report), sec. A-26.
- 2 *Video of the fire itself* Brian Butler, WPRI-TV Channel 12 videotape (hereafter, Brian Butler videotape), February 20, 2003.
- 2 *Among the questioners was Whitney Casey* Whitney Casey, in discussion with the author, June 17, 2008.
- 3 *Ten hours before the fire* Bryan Rourke, “Fire Marshal Thought Disaster Would Be ‘Remote,’” *Providence Journal*, February 22, 2003.
- 3 *Now he wondered whether the phone message* Edward Fitzpatrick, “Is It Fair to Blame the State Fire Marshal?” *Providence Journal*, April 6, 2003.
- 3 *Amid the crackle of flames and din of sirens* Ibid.
- 3 *Over the next several days* Jennifer Levitz and Zachary R. Mider, “Blaze, Smoke Engulf Victims within Seconds,” *Providence Journal*, February 22, 2003; Tom Mooney, Linda Borg, and Amanda Milkovits, “With Photos in Hand, Families Hold Out Hope,” *Providence Journal*, February 22, 2003.
- 3 *Had she been allowed closer* Richard A. Gould, “Report of Forensic Archaeology Recovery Team,” March 28, 2003.
- 3 *And, over by what remained of the stage* Technical statement / Seizure Report of Deputy State Fire Marshal Robert E. Mowry Jr., June 6, 2003.
- 4 *That afternoon, Fire Marshal Owens’s cell phone* Fitzpatrick, “Is It Fair to Blame the State Fire Marshal?”
- 4 *One was Jackie Bernard* Jesse Hamilton, “96 Killed in Club Fire Started by Illegal Pyro,” *Hartford Courant*, February 22, 2003.
- 4 *“Rocky” was a familiar figure at fire scenes* Tom Mooney and Zachary R. Mider, “The Fire Marshal,” *Providence Journal*, December 18, 2003, including photo by Mary Murphy.

- 4 *As the fire marshal's turnout boots crunched* Grand jury testimony of West Warwick detective Raymond Lemoi, July 14, 2003, p. 141, lines 19–25.

2. MILL TOWN WATERING HOLE

- 6 *And that was the beauty of Patrick Quinn's 1913 plan* Tom Mooney, "The Mill Town," *Providence Journal*, December 14, 2003. Mooney's article is an elegant exposition of West Warwick's history. This chapter owes much to his fine research.
- 7 *With economic downturns often come fire and arson* Ibid.
- 7 *A town councilman sought to negotiate contracts* Ibid.
- 7–8 *In February of 2003 there sat in the southeast corner of West Warwick* Paul Von Zielbauer, "Fire in a Nightclub: The Place; Club's Fare Changed over the Generations," *New York Times*, February 22, 2003.
- 8 *A suspicious fire scarred its interior in 1971* West Warwick File Report, File No. 74, Fire District 4, March 21, 1971.
- 8 *If he ever visited the property after 1995* Jennifer Levitz, "Sources" for "The Entrepreneurs," *Providence Journal*, December 17, 2003; ("Raymond J. Villanova's yacht and Rolls Royce: U.S. District Court, Providence, 1998 lawsuit, *Raymond Villanova and Frances Villanova v. William Colite and Town of Lincoln Tax Assessor's Office*").
- 8 *The dubious allure of operating a marginal bar* Scott Mayerowitz, "A Long History, but Few Problems," *Providence Journal*, September 22, 2003.
- 8 *A tradesman changing a lightbulb* Jennifer Levitz, "The Entrepreneurs," *Providence Journal*, December 17, 2003.
- 9 *Each time successive owners sought transfer* West Warwick Police Department Incident Reports, March 8, 2000, and August 24, 2000; Minutes of Meetings of the West Warwick Town Council, November 2, 1993, January 6, 1998, and March 21, 2000.
- 9 *One application of soundproofing material occurred in the early summer of 1996* Deposition of Timothy Arnold in *Gray et al. v. Derderian et al.*, CA No. 04–312-L, United States District Court for the District of Rhode Island (hereafter, USDC–RI), May 2, 2005; deposition of Howard Julian in *Gray et al. v. Derderian et al.*, CA No. 04–312-L, USDC-RI, January 10, 2006; witness statement of Howard Julian, February 4, 2003.
- 9 *Notwithstanding Julian's parsimony* Von Zielbauer, "Fire in a Nightclub"; Minutes of Meetings of West Warwick Town Council, January 6, 1998.
- 9 *In arrears to his landlord by over \$40,000* Letter from Howard Julian to Raymond Villanova, February 4, 2000.

- 10 *One potential purchaser, Al Prudhomme* Grand jury testimony of Albert A. Prudhomme Jr., May 21, 2003.
- 10 *Julian's potential salvation arrived in December 1999* Levitz, "Entrepreneurs."
- 10 *It could not have been the ramshackle building* Jeff Drake Exhibits, Station floor plan and architectural details.
- 10 *It was actually two doors hung back to back* Grand jury testimony of Scott Vieira, March 26, 2003, pp. 28–29, 48–49.
- 10 *And sometimes doorless, in the case of the men's room* Ibid., p. 77

3. ROCK IMPRESARIOS

- 12 *"It's a place where good bands go to die* Grand jury testimony of Steven Scarpetti, May 28, 2003, p. 15, lines 2–3.
- 12 *It was anticipated that the W.A.S.P. performance* Term sheet for Julian-Derderian club sale, seized from Michael Derderian's house.
- 12 *The lead singer for W.A.S.P.* Official W.A.S.P. website, <http://www.waspnation.com>.
- 12 *Lawless's stagecraft* Wikipedia, "Blackie Lawless."
- 12–13 *W.A.S.P.'s road manager in the spring of 2000* Witness statement of Dan Biechele (AG interview), March 3, 2003, 1 p.m., pp. 55–58.
- 13 *According to their accountant's statements* Financial statements of Jack Mute, CPA, seized from Michael Derderian's house.
- 13 *Together, they agreed to pay* Letter from Joseph J. Reale Jr. to Howard Julian, March 15, 2000.
- 13 *Having cut his journalistic teeth* Jennifer Levitz, "The Entrepreneurs," *Providence Journal*, December 17, 2003.
- 13 *One of Jeff Derderian's stories* WHDH Channel 7, "In Case of Emergency" video, AG's First Disclosure, 03–815-PR.
- 14 *Older brother Mike was more of a highflier* Financial statements of Jack Mute; Levitz, "Entrepreneurs."
- 14 *When Howard Julian ran the club* Grand jury testimony of Howard Julian, November 5, 2003, pp. 44–47.
- 14 *Uncovered from The Station's ashes, it read* Handwritten framed note from Dan Gauvin to Derderians, Plaintiffs' Exhibit 344 in evidence warehouse.
- 14 *Vanner worked several nights each week* Grand jury testimony of Paul Vanner, May 7, 2003, p. 6, lines 6–23.
- 14 *The Derderians were tightfisted with all their employees* Grand jury testimony of John Arpin, April 24, 2003, pp. 6–7.
- 15 *His co-worker, Troy Costa* Witness statement of Troy Costa, July 1, 2003.

- 15 *Thomas Walason, of the bands Rock Show* Witness statement of Thomas Walason, February 25, 2003, to Detective Eric Johnson, quoted in Johnson's statement in AG's Third Disclosure.
- 15 *Geoffrey Read, a volunteer firefighter* Witness statement of Geoffrey Reed [sic], October 21, 2003.
- 15 *Justin Pomfret, who escaped from the fire* Witness statement of Justin Pomfret, February 21, 2003.
- 15 *Paul Dean, a carpet installer by day* Witness statement of Paul Dean, March 3, 2003.
- 15–16 *Even if a musician had other business relations with the club* Witness statement of Richard Antonelli, February 26, 2003.
- 16 *According to Richard Carr* Witness statement of Richard Carr, March 6, 2003.
- 16 *In the fall of 2002, Jeff Derderian hired Anthony Baldino* Witness statement of Anthony Baldino, September 16, 2005; Anthony Baldino, in discussion with the author, August 10, 2011.
- 16 *Lewis Cook had the unenviable task* Witness statement of Lewis Cook, March 11, 2003.
- 16 *When the cheaply constructed men's room door* Grand jury testimony of Paul Vanner, May 7, 2003, p. 66, lines 13–16.
- 16–17 *Howard Julian routinely told bands* Handwritten fax from Howard Julian to Mark Hyman, "re: WASP Feb 23 or 24."
- 17 *The Derderians caught on Talent Buyers' Directory, 2003*, published by Pollstar Inc.; Capacity Report, Station Fire Investigation, based on documents obtained from search of Michael Derderian's house.
- 17 *At 6 o'clock on the evening of* Witness statement of Francis Canillas, March 11, 2003.
- 17 *Warner or his wife called police with noise complaints* Police reports of March 12, 1994; June 10, 1994; June 11, 1994; March 22, 1996; November 10, 1996; and November 14, 1996, disclosed by AG, with witness statement of Barry Warner, March 12, 2003.
- 17–18 *In 2000 the police chief was Peter Brousseau* Memorandum from West Warwick police chief Peter T. Brousseau, May 12, 2000.
- 18 *On a quiet afternoon that same month* Witness statement of Barry Warner, March 26, 2003, pp. 8–9.
- 18 *Back at the club, Mike Derderian spoke with manager Tim Arnold* Witness statement of Timothy J. Arnold, February 24, 2003.
- 18–19 *Later that week, Patricia Byrnes* Grand jury testimony of Patricia Byrnes, July 16, 2003, pp. 7–20.
- 19 *Warner thereafter created an American Foam quotation sheet* Deposition

- of Chad Martin in *Gray et al. v. Derderian et al.*, CA No. 04–312-L, USDC– RI, January 3, 2006, and February 8, 2006; witness statement of Chad Martin (American Foam Corp.), March 26, 2004.
- 19 *the ‘Ford Taurus’ of foam* Witness statement of Barry Warner, March 26, 2003, p. 57.
- 19 *According to Warner’s secretary* Witness statement of Desiree Labree (American Foam), November 18, 2005.
- 19 *Around the same time, Todd Bryant* Witness statement of Todd Bryant, September 10, 2006.
- 19 *On June 9, 2000, Mike Derderian wrote to Barry Warner* Letter from Michael Derderian to American Foam Corp., dated June 9, 2000.
- 19 *Three weeks later* American Foam Corp. invoice to The Station, dated June 27, 2000.
- 19 *Over the following week* Witness statement of Timothy J. Arnold, February 24, 2003.
- 19 *3M Super 77* Grand jury testimony of David M. Stone, April 4, 2003.
- 20 *Jeff Derderian was known at WHDH* Witness statement of Michael Boudo, June 13, 2003; WHDH Channel 7 “Burning Beds” video, AG’s First Disclosure 03–582-PR.

4. ONLY ROCK ’N’ ROLL

- 21–22 *Erin Pucino worked the 6 a.m. shift* Pietra Pucino, in discussion with the author, July 7, 2011. (After the fire, Erin Pucino legally changed her name to Pietra Pucino.)
- 22–23 *Mike Iannone was not what could be called* Witness statement of Michael Iannone, October 27, 2003.
- 23 *Nightclub safety was the farthest thing from Gina Gauvin’s mind* Felice J. Freyer, “Against the Odds,” *Providence Journal*, October 26, 2003; Felice J. Freyer, “Saving the Patient,” *Providence Journal*, October 27, 2003; Felice J. Freyer, “Road to Recovery,” *Providence Journal*, October 28, 2003; Felice J. Freyer, “Going Home,” *Providence Journal*, October 29, 2003.
- 23–24 *Thirty-three-year-old Pam Gruttadauria* Lydia Polgreen, “Months Past Club Fire, a Struggle to Go On,” *New York Times*, May 4, 2003; Mark Patinkin, “At the End, Her Lips Moved, and It Seemed Her Head Nodded,” *Providence Journal*, May 11, 2003.
- 24 *Joe Kinan had even less interest in Great White* Joe Kinan, in discussion with the author, January 24, 2008; Angie Cannon, “Looking for Answers in the Ashes,” *U.S. News and World Report*, February 8, 2004.
- 24 *Three hundred miles north of Rhode Island* Ben Ratliff, “Fire in a

Nightclub: The Band; Group Persevered by Making Circuit of Smaller Clubs,” *New York Times*, February 22, 2003.

5. THAT AIN'T NO WAY TO HAVE FUN, SON

- 25 *To the right of the aisle* Bus interior photos CPD (Coventry Police Department) 15, 19, and 21; AG’s Fourth Disclosure; Jack Russell’s Great White session musician contract for 2002–3 tour (indexed under witness statement of Eric Powers in AG materials).
- 25–26 *Great White, originally called Dante Fox* Jack Russell publicity bio, November 3, 2002, in AG materials, indexed under Stone Pony Contract; Wikipedia, “Great White.”
- 26 *By March 2002 he was hopelessly in arrears* Voluntary Petition of Jack P. Russell, United States Bankruptcy Court, Central District of California, August 21, 2002.
- 26 *Nevertheless, his promotional bio still waxed optimistic* Jack Russell publicity bio, November 3, 2002.
- 26–27 *It is a music industry convention* Grand jury testimony of Mark Kendall, May 21, 2003, Tape 59, side A.
- 27 *When “Jack Russell’s Great White” set off* Ibid.
- 27 *Powers was still owed* Grand jury testimony of Eric Powers, n.d., Tapes 3–5.
- 27 *Session musicians were definitely second-class citizens* Jack Russell’s Great White session musician contract, in AG materials.
- 27 *This tour of Jack Russell’s Great White* Wikipedia, “Great White.”
- 27 *Starting off in Honolulu, Hawaii* Grand jury testimony of Eric Powers, Tapes 3–5.
- 27–28 *At 9:43 on the morning of January 20* Stephen Kurkjian, Stephanie Ebbert, and Thomas Farragher, “Series of Errors Sealed Crowd’s Fate,” *Boston Globe*, June 9, 2003; witness statement of Terry Barr, February 21, 2003; FedEx shipping invoice 9–351–33505 for delivery January 20, 2003.
- 28 *The tour moved on to Hewitt, Minnesota* Grand jury testimony of Eric Powers, Tapes 3–5; Witness statement of Dan Biechele, February 21, 2003, 7:13 a.m.
- 28–29 *Moving northward* Witness statement of Chris Rush, February 26, 2003.
- 29 *The Great White tour bus* Witness statement of John Kubus, March 4, 2003, p. 10.
- 29 *Biechele, the tour manager, would print* Mark Arsenault, Paul Edward Parker, and Tom Mooney, “Extra: The Station Fire—Filling in Some Blanks,” *Providence Journal*, November 9, 2007; Tour Day Sheet for

- Great White appearance at The Station, February 20, 2003.
- 29 *Great White's contract with The Station* Great White / Station appearance contract, February 20, 2003, Exhibit 147 in evidence warehouse.
- 29 *The hospitality rider for Jack Russell's Great White* Jack Russell's Great White Catering Rider 2002/2003. All such riders referenced in this chapter in AG's materials.
- 29–30 *Warrant's hospitality rider* Warrant Hospitality Rider for Station appearance.
- 30 *The first clue that you're getting to be* Dokken Hospitality Rider for Station appearance.
- 30 *And your strangeness quotient* Black Label Society Hospitality Rider for Station appearance.
- 30 *W.A.S.P.'s contract for The Station* W.A.S.P. Hospitality Rider for Station appearance.
- 30 *One measure of clout in the rock touring world* Rider Agreement for Mick Taylor and Band appearance at The Station, September 3, 2000; fax from Station management to Bruce Solar of Absolute Artists, August 10, 2000 re: Mick Taylor appearance.
- 31 *One such band, Firehouse* Photograph from Firehouse appearance at The Station, disclosed in AG materials.
- 31 *One instrument-case maker* Coffin Case label, Plaintiffs' Exhibit 290 in evidence warehouse; Coffin Case website, www.coffincase.com.
- 31 *But why do people spend* Michael Mikutowicz, in discussion with the author, June 18, 2011; witness statement of Michael Mikutowicz, September 15, 2005.
- 31 *Mikutowicz's Black Sabbath tribute band* Witness statements of Michael Mikutowicz, February 25, 2003, February 27, 2003, September 20, 2005, and October 25, 2005; Station poster for coming events, February 2003.
- 31 *One night at The Station* Witness statement of Stephen D. Lewis, September 20, 2005; witness statement of Michael Mikutowicz, October 25, 2005.
- 31–32 *Believer's front man was as frugal* ATF interview of Michael Mikutowicz, February 27, 2003; witness statement of Michael Mikutowicz, September 15, 2005.
- 32 *Holy Diver was not the only local band* Grand jury testimony of Rev Tyler, April 16, 2003; O'Ryan Johnson, "Pyrotechnics Used at Club by Area Musician," *North Andover (MA) Eagle-Tribune*, February 22, 2003.
- 32 *Other bands using pyro at The Station* Witness statement of Clifford L. Koehler, February 25, 2003.
- 32 *Nathan Conti ran sound for Dirty Deeds* Grand jury testimony of Nathan

- R. Conti, April 16, 2003; witness statement of Robert A. Conti and Nathan R. Conti, February 27, 2003.
- 32–33 *Some pyro bands at The Station eschewed equipment altogether* Grand jury testimony of Edward Ducharme, April 29, 2003.
- 33 *One time at The Station he performed his fire-breathing trick* Ibid., p. 6, lines 6–11.
- 33 *Two days before that gig* Ibid., p. 9, lines 14–21.
- 33 *Frank Davidson grew up in Rhode Island* Witness statement of Frank Davidson, February 22, 2003; transcript of recorded phone conversation between Frank Davidson and Paul Vanner, February 28, 2003 (Rhode Island State Police controlled call); transcript of recorded phone conversation between Frank Davidson and Kevin Beese, March 1, 2003 (RI State Police controlled call); grand jury testimony of Frank Davidson, April 22, 2003.
- 33 *Station regular Cliff Koehler clearly recalls* Witness statement of Clifford L. Koehler, February 25, 2003.
- 34 *Alfred Gomes noticed, too* Grand jury testimony of Alfred Gomes, April 29, 2003, p. 7, lines 8–23, p. 8, lines 1–2.

6. LUCKY DAY

- 35 *At least that's what crossed Tina Ayer's mind* Witness statement of Jacqueline Bernard, February 27, 2003.
- 35 *Tina Ayer had done the '80s heavy-metal thing* Stephanie Chelf, "Memorial Biography of Tina Ayer," *Boston Globe*, www.boston.com/news/packages/nightclub_fire/victims/tayer.htm.
- 35 *Tina's best friend, Jackie Bernard* Witness statement of Jacqueline Bernard, February 27, 2003; Franci Richardson and Marie Szaniszlo, "Survivors Lucky to Get Out Alive," *Boston Herald*, February 22, 2003.
- 35 *Under a handwritten heading* Guest List from Station debris, Plaintiffs' Exhibit 147 in evidence warehouse.
- 36 *By November 2002 the Derderian brothers had tired* W. Zachary Malinowski, "Brothers Were Trying to Sell Their Nightclub," *Providence Journal*, February 26, 2003.
- 36–37 *One interested reader was Armando Machado* Witness statements of Armando M. Machado, February 21, 2003, and July 25, 2006; intraoffice memorandum from Judy Kearns, Triton Realty, May 12, 2006 (indexed under Mary Jo Carolan witness statement in AG's Disclosure); purchase-and-sale agreement between DERCO LLC and Armando Machado, November 24, 2002.
- 37 *The Derderians' "other two buyers" were* Temporary purchase agreement

- between Derco LLC and Michael P. O'Connor, February 7, 2003; witness statement of Michael P. O'Connor, March 8, 2003.
- 37–38 *Around 9 o'clock on the morning of February 19* Witness statements of Richard T. Sanetti, March 1, 2003, and April 10, 2003; witness statement of Patricia Sanetti, April 10, 2003.
- 38 *He told them that the Station concert would be a "killer show," complete with pyrotechnics* Witness statements of Shane M. Embelton, March 8, 2003, and March 14, 2003.
- 38 *They filed articles of organization* Articles of Organization for The Station Club, LLC, February 20, 2003.
- 38–39 *That same day, Jack Russell woke up with an idea* Jennifer Levitz, "The Guest List," *Providence Journal*, December 19, 2003. Facts elicited by Levitz's excellent research form the basis of several vignettes in this chapter.
- 39 *The rocker had agreed to be interviewed* Witness statements of Michael Ricardi, February 25, 2003, and April 4, 2003; videotape interview with Jack Russell by James Gahan and Michael Ricardi, February 20, 2003; Stephen Kurkjian, Stephanie Ebbert, and Thomas Farragher, "Deadly Decisions: Behind the Rhode Island Nightclub Fire—Deception, Missteps Sparked a Tragedy," *Boston Globe*, June 8, 2003.
- 39–40 *When Jack Russell finally strode* Levitz, "Guest List."
- 40 *About ten minutes after nine, Mike O'Connor* Witness statement of Michael P. O'Connor, March 8, 2003.
- 40–41 *Jason Lund, twenty-six, was in the thick* Witness statement of Jason Lund, AG's Third Disclosure.
- 41 *But at 10:55 Patty Sanetti left to go home* Witness statements of Richard Sanetti and Patricia Sanetti.

7. YOURS, IN FIRE SAFETY ...

- 42 *Mike thought back to his bachelor party at The Station* Jennifer Levitz, "The Guest List," *Providence Journal*, December 19, 2003.
- 42-43 *In Rhode Island, local fire inspections are carried out by* Tom Mooney and Zachary R. Mider, "The Fire Marshal," *Providence Journal*, December 18, 2003.
- 43 *In addition to his home, he owned* Stephanie Ebbert, "Town Officials' Ties Raise Eyebrows; Nightclub Fire Exposes Municipal Dealings," *Boston Globe*, March 25, 2003; West Warwick Tax Assessor's Office records.
- 43 *The job of fire code inspector in West Warwick* Mooney and Mider, "Fire Marshal."

- 43 *Although the job paid the same as his old position, \$42,216* Agreement between the Town of West Warwick and Local 1104, International Ass'n. of Fire Fighters, AFL-CIO, July 1, 1996–June 30, 1999, p. 28.
- 43 *Bull-necked and stocky, with a fireman's trademark mustache* Assistant deputy state fire marshal ID card of Denis Larocque, December 31, 1999.
- 43 *In December of 1999 his work took him to The Station* Memo from Peter Brousseau to Gerald Tellier, November 15, 1999.
- 43–44 *Larocque's capacity calculations* Zachary R. Mider, "The Station's Capacity Went from 50 to 404 since '69," *Providence Journal*, August 24, 2003.
- 44 *The Rhode Island state fire code mandates* Rhode Island General Laws, Title 23, chap. 28.6.
- 44 *On December 30, 1999, he wrote to Police Chief Brousseau* Memo from Denis Larocque to Peter Brousseau, December 30, 1999.
- 44 *Just over two months later* Grand jury testimony of Denis Larocque, June 25, 2003, pp. 18–21; memo from Denis Larocque to Peter Brousseau, March 2, 2000.
- 44 *The fire code relied upon by Larocque* Rhode Island General Laws, Title 23, chap. 28.6, secs. 3, 4.
- 44 *According to William F. Howe* Mider, "Station's Capacity Went from 50 to 404."
- 45 *Kimberly and Stephanie Napolitano* Kimberly Napolitano and Stephanie Napolitano, in discussion with the author, August 31, 2011.
- 45 *The foam ran the length of the south wall* Deposition of Timothy Arnold in *Gray et al. v. Derderian et al.*, CA No. 04–312-L, USDC–RI, May 2, 2005.
- 45 *The state fire code requires decorative* Rhode Island General Laws, Title 23, chap. 28.6, sec. 15.
- 45 *Under that test protocol* Ibid.
- 45 *Had the match flame test been applied* Results of statutory match-flame test conducted by author, presented to West Warwick Town Council, April 2, 2008.
- 45 *An earlier attempt at sound insulation* Grand jury testimony of Denis Larocque, June 25, 2003, p. 13.
- 45–46 *The first West Warwick fire inspection thereafter* Field Inspection Notice, Town of West Warwick Fire Department, November 21, 2000.
- 46 *A year later, in November 2001, Larocque himself* West Warwick Fire Department Inspection Report, November 10, 2001, by "D. Larocque"; witness statement of Denis Larocque, February 25, 2003.
- 46 *Larocque returned to The Station in November 2002* Ebbert, "Town

- Officials' Ties Raise Eyebrows"; West Warwick Fire Department Inspection Report, November 20, 2002, by "D. Larocque."
- 46 *On December 2, 2002, a "compliance inspection report" confirmed* Witness statement of Denis Larocque, February 25, 2003.
- 46 *However, the offending door* Grand jury testimony of David M. Stone, April 4, 2003, pp. 36–39, 50.
- 46 *New England Custom Alarms* Deposition of Joseph LaFontaine, New England Custom Alarms, in *Gray et al. v. Derderian et al.*, CA No. 04–312-L, USDC–RI, April 4, 2005; letter from Joseph LaFontaine to The Station, December 4, 2002, stating, "A copy of this letter will be forwarded to the West Warwick Fire Prevention office."
- 47 *Larocque would testify after the fire* Witness statement of Denis Larocque, February 25, 2003; Grand jury testimony of Denis Larocque, June 25, 2003, pp. 46–47.
- 47 *That door was completely covered with the gray egg-crate foam* Grand jury testimony of David M. Stone, April 4, 2003, pp. 36–37.

8. SUDS, SPARKS, AND SPONSORSHIP

- 48 *We're back! We're fuckin' back* Matthew Pickett audiotape, February 20, 2003.
- 48 *This was the between-set patter of emcee* Gerald M. Carbone, "WHJY DJ the Doctor Is among the Missing," *Providence Journal*, February 22, 2003.
- 48 *Dan Biechele, set up an apparatus* Report of Robert Mowry Jr., Rhode Island Fire Marshal's Office, August 19, 2003; witness statements of Dan Biechele, February 21, 2003 (1:21 a.m.), February 21, 2003 (7:13 a.m.), February 28, 2003, and March 3, 2003; testimony of Dan Biechele at plea proceeding, February 7, 2006.
- 48 *Gonsalves, forty, shared some personal history* Carbone, "WHJY DJ the Doctor Is among the Missing."
- 48–49 *Like Mike Hoogasian, Gonsalves* Memorial Biography of Michael Gonsalves, *Providence Journal*, March 20, 2003.
- 49 *Budweiser's interest in the concert* Witness statement of Donald N. Trudeau, March 7, 2003; affidavit of Donald N. Trudeau, April 3, 2007.
- 49 *McLaughlin & Moran was a substantial advertising customer* Affidavit of Charles Borkoski, April 3, 2007; memorandum to Charles Borkoski (WHJY) from Jennifer Garner, February 17, 2003.
- 50 *That impression was cemented by Dr. Metal's on-air telephone interview* Grand jury testimony of Douglas Bardsley, June 25, 2003; letter of Robert Grasso to Police Chief Peter Brousseau, February 21, 2003;

- witness statements of Robert Grasso, February 24, 2003, and April 22, 2003; grand jury testimony of Robert Grasso, July 14, 2003; witness statement of Ronald Goodinson, March 5, 2003.
- 50 *The night of Great White's appearance at The Station* Witness statement of Donald N. Trudeau.
- 50 *The two beer men were joined near the horseshoe bar* Grand jury testimony of Jordan Clark, May 28, 2003; grand jury testimony of David McGinn, May 28, 2003; grand jury testimony of Jill Malinowski, May 28, 2003; grand jury testimony of Stephen Scarpetti, May 28, 2003; grand jury testimony of Jeremy Gately, May 28, 2003.
- 50–51 *On the floor at center stage* Instructions for Pyropak Tube Devices / Gerbs, Luna Tech Inc.; fax from Dan Biechele to Randy Bast containing Great White pyro order, January 2003; statement of Michael A. Roland, S.A., Bureau of Alcohol, Tobacco, Firearms and Explosives, regarding Randy Bast interview of February 21, 2003; letter to Ivan Holder (Luna Tech) from Randy Bast, January 16, 2003; grand jury testimony of Randy Bast, July 16, 2003; grand jury testimony of Robert Hutchins, June 18, 2003.
- 51–52 *Rhode Island law, like that of most states* Rhode Island General Laws, Title 23, chap. 28.11.
- 52 *Plans for Great White's show had not always been so flashy* Grand jury testimony of Randy Bast; letter to Dan Biechele from Randy Bast, January 13, 2003; High-Tech Special Effects Invoice no. 412 to Jack Russell Touring, January 16, 2003.
- 52 *About a year earlier, Paul Vanner* Grand jury testimony of Paul Vanner, May 7, 2003.

9. FILM AT ELEVEN

- 53 *In the early morning hours of February 17* Jodi Wilgoren, "21 Die in Stampede of 1,500 at Chicago Nightclub," *New York Times*, February 18, 2003; Jodi Wilgoren, "Tapes Show Desperation and Panic at Chicago Club's Exits," *New York Times*, March 1, 2003.
- 53 *It was this tragic event* Bryan Rourke, "Fire Marshal Thought Disaster Would Be 'Remote,'" *Providence Journal*, February 22, 2003.
- 53–54 *So, around 10:40 on the night* Grand jury testimony of Brian Butler, June 9, 2003.
- 54 *At times, King's six-foot-two, three-hundred-pound body* Memorial Biography of Tracy King, *Providence Journal*, March 20, 2003.
- 54 *As Butler's camera pans stage left* Witness statements of Dan Biechele, February 28, 2003, and March 3, 2003; Brian Butler videotape of Station

- walk-through, February 20, 2003.
- 54–56 *As Butler’s camera traverses the dance floor* Brian Butler videotape.
- 56 *DeMaio, the single mother of a seven-year-old son* Memorial Biography of Dina DeMaio, *Providence Journal*, March 20, 2003.
- 56 *As Butler’s camera pans left* Brian Butler videotape.
- 56 *Hired as a “private detail” by the Derderians* Witness statement of Anthony Bettencourt, February 26, 2003.
- 57 *Knott was on routine patrol* Witness statement of Mark Knott, February 28, 2003.
- 57 *On the wall behind Andrea Mancini hangs* Brian Butler videotape.
- 57 *At 11:04, Station light man Scooter Stone* Witness statement of David Stone, February 22, 2003; grand jury testimony of David Stone, April 4, 2003.
- 57–58 *At 11:05, guitar feedback signals* Brian Butler videotape.
- 58 *In a few seconds Kinan will take off* Angie Cannon, “Looking for Answers in the Ashes,” *U.S. News and World Report*, February 12, 2004.
- 58–59 *At the thirty-six-second mark* Brian Butler videotape.
- 59 *A few yards behind him in the pack*, Erin Pucino Pietra (née Erin) Pucino, in discussion with the author, July 7, 2011.

10. THIS WAY OUT

- 60 *West Warwick patrolman Mark Knott* Witness statement of Mark Knott, February 28, 2003; Tom Mooney, “Saving Lives at the Open Gates of Hell,” *Providence Journal*, April 13, 2003; witness statement of Anthony Bettencourt, February 26, 2003.
- 60–62 *Al and Charlene Prudhomme* Witness statement of Albert Prudhomme, March 2, 2003; witness statement of Charlene Prudhomme, March 2, 2003.
- 62 *Jack Russell’s motel housekeeper guests* Witness statement of Jacqueline Bernard, February 27, 2003; Elizabeth Mehren and Stephen Braun, “Nightclub Fire Toll Nears 100,” *Los Angeles Times*, February 22, 2003.
- 62 *Tom Conte and his girlfriend* Witness statement of Thomas Conte, March 11, 2003; witness statement of Kimberly Phillips, March 1, 2003.
- 62–63 *Redheaded Gina Gauvin* Witness statement of Gina Gauvin, October 17, 2003; Ally Donnelly, “One Woman’s Survival Story of the Station Nightclub Fire,” *New England Cable News (NECN)*, March 13, 2009; Gina Gauvin, in discussion with the author, October 21, 2011.
- 63 *John Fairbairn and his wife* Witness statement of John Fairbairn, February 22, 2003; witness statement of Andrea Fairbairn, February 26, 2003.

- 63–64 *Raul “Mike” Vargas, thirty-one, had come* Witness statements of Raul Vargas, February 22, April 24, and April 25, 2003; Cathleen F. Crowley, “A Survivor’s Story: Saved by a Pileup,” *Providence Journal*, March 10, 2003.
- 64 *Tribute band Human Clay was represented* Witness statement of Michael Kaszmarczyk, February 26, 2003; witness statement of Cara DelSesto, May 8, 2003.
- 64 *Earlier on, after the pyro ignited* Grand jury testimony of David Stone, April 4, 2003; deposition of Joseph LaFontaine, New England Custom Alarms, in *Gray et al. v. Derderian et al.*, CA No. 04–312-L, USDC–RI, April 4, 2005.

11. CAUSE FOR ALARM

- 65 *New or old, most utilize* Houston Fire Department, Continuing Education, June 1999.
- 65 *Fire sprinklers were not originally calculated* “History of Fire Sprinkler Systems,” APi Fire Protection Group Inc., 2003.
- 65 *One prime example was a fire at the Fine Line Music Café* David Chanen, “Warm-up Act Sets Fine Line Afire; No One Hurt,” *Minneapolis Star-Tribune*, February 18, 2003; Chris Riemenschneider, “Nightclubs Put Safety in Spotlight,” *Minneapolis Star-Tribune*, February 19, 2003; “The Need for Sprinklers in Nightclubs,” Northern Illinois Fire Safety Advisory Board, 2007.
- 65–66 *Over the course of their development* John Jay College of Criminal Justice, City University of New York, Department of Protection Management, Division of Fire Science Course Materials, *Introduction to Fire Science*, Section 6, Unit 3, Automatic Sprinkler Systems (Flannery Associates, 2002).
- 66 *In 1806, Englishman John Carey* “History of Fire Sprinkler Systems.”
- 66 *Henry S. Parmelee was the president of “Fire Sprinkler,”* Wikipedia, http://en.wikipedia.org/wiki/Fire_sprinkler.
- 66–67 *It’s no small irony for the victims* “History of Fire Sprinkler Systems”; “Fire Sprinkler.”
- 67 *Why, then, wasn’t this Rhode Island–born boon* Mark Arsenault, “The Codes,” *Providence Journal*, December 15, 2003.
- 67 *A sprinkler system for the club* Grand jury testimony of Detective Roland Coutu, November 5, 2003.
- 67 *and far less than the \$65,000 they spent on The Station’s sound system* Grand jury testimony of Paul Vanner, May 21, 2003, p. 27, lines 20–26.
- 67–68 *The National Institute of Standards and Technology* “Draft Report of the

- Technical Investigation of the Station Nightclub Fire,” National Institute of Standards and Technology, Technology Administration, U.S. Department of Commerce, March 2005.
- 68 *While fire suppression may keep conditions tenable* Guylene Proulx, in discussion with the author, August 29, 2008.
- 68–69 *What fire detection existed at The Station* Deposition of Joseph LaFontaine, New England Custom Alarms, in *Gray et al. v. Derderian et al.*, CA No. 04–312-L, USDC–RI, April 4, 2005.
- 69 *When Dan Biechele set off the pyrotechnics* Witness statement of Robert W. Rager, March 13, 2003.
- 69 *Great White stopped playing thirty-six seconds post-ignition* Brian Butler videotape.
- 69 *Whether a nightclub’s staff responds* Grand jury testimony of Scott Vieira, March 26, 2003, p. 25.
- 69 *Management of the Fine Line Café Riemenschneider*, “Nightclubs Put Safety in Spotlight.”
- 69–70 *Whereas the Fine Line Café’s management* Witness statement of Francis Canillas, March 11, 2003; witness statement of Shamus D. Horan, February 25, 2003; witness statement of Daniel Davidson, February 22, 2003.
- 70 *As reconstructed by the Providence Journal* *Providence Journal* list of Station occupants from known dead, survivors interviewed by *Journal*, identified by other survivors, identified by attorneys, confirmed by relatives, confirmed by hospitals, persons who gave statements to police, photographers in club with confirmed photos, and survivors identified in another’s statement to police; published at www.projo.com/extra/2003/stationfire/list/.

12. I’M WITH THE BAND

- 71 *Mike Iannone had come to The Station* Witness statement of Michael Iannone, October 27, 2003.
- 71–72 *The Derderians solved both problems* Witness statement of Scott J. Vieira, March 1, 2003; grand jury testimony of Scott Vieira, March 26, 2003.
- 72 *When Mike Iannone saw the pyrotechnics erupt* Witness statement of Michael Iannone.
- 72–73 *Fred Crisostomi, a painter* Witness statement of Gina M. Russo, November 21, 2003; Angie Cannon, “Looking for Answers in the Ashes,” *U.S. News & World Report*, February 12, 2004.
- 73–74 *The Station’s approach to providing concert security* Grand jury

- testimony of Scott Vieira, March 26, 2003.
- 74 *But someone did direct Rob Feeney* Witness statements of Robert P. Feeney, March 11 and April 7, 2006; Jennette Barnes, “Survivor Is Coping with Loss, Injury,” *New Bedford (MA) Standard-Times*, February 15, 2004.
- 75–76 *John Gibbs and Kevin Dunn had driven* Witness statement of John Gibbs, March 1, 2003.
- 76 *Stephanie and Nicole Conant* Witness statement of Stephanie Conant, February 23, 2003.
- 76 *Another individual with unfettered access* Witness statements of John R. Arpin, February 21 and 28, 2003; grand jury testimony of John R. Arpin, April 24, 2003.
- 76–77 *One family that might disagree* Witness statements of Donna Cormier, March 1 and April 28, 2003; grand jury testimony of Donna Cormier, July 21, 2003.
- 77–78 *Photographer Dan Davidson had stopped* Witness statement of Daniel Davidson, February 22, 2003.
- 78 *Davidson took four photos* Photographs by Dan Davidson, February 20, 2003.
- 78–79 *Behind him, David Filice bends* Grand jury testimony of David Filice, March 4, 2003, p. 40.
- 79 *Nine days after the fire, Donna Cormier reviewed* Witness statement of Donna Cormier, March 1, 2003, pp. 10–12; grand jury testimony of Donna Cormier, July 21, 2003, pp. 36–38 (identifying “shaved-headed” man in Davidson “*Boston Herald* photo” as bouncer who tried to turn her family away); witness statement of John Arpin, March 3, 2003, lines 96–98 (identifying himself as the man “with the bald head” in Davidson “*Boston Herald* photo”).
- 79 *According to the Rhode Island Department of the Attorney General “The Station Fire—List of People inside Building at Time of Fire,”* Rhode Island Department of Attorney General; witness statement of John Lynch, February 28, 2003, p. 16, line 17.
- 79 *At least one person chose not to use the stage exit* Witness statement of William Long, February 28, 2003; Mike McAndrew, “CNY Native Barely Escaped Deadly R.I. Nightclub Fire,” *Syracuse (NY) Post-Standard*, March 9, 2003.
- 79–80 *Linda Fisher didn’t work for Great White* Witness statement of Linda Fisher, November 6, 2003; witness statement of Mark Knott, February 28, 2003; Tom Mooney, “Saving Lives at the Open Gates of Hell,” *Providence Journal*, April 13, 2003.

- 80 *Bill Long was somehow pulled* Witness statement of William Long; McAndrew, “CNY Native Barely Escaped Deadly R.I. Nightclub Fire.”
- 80–81 *Rob Feeney and Donna Mitchell had not been given* Witness statements of Robert P. Feeney, March 11 and April 7, 2006; Barnes, “Survivor Is Coping with Loss, Injury.”
- 81 *He later identified Scott Vieira* Witness statement of Robert P. Feeney, April 7, 2006. According to his witness statement, after getting out of the hospital, Feeney searched the Internet and came upon pictures of the Station Fire. He located a picture that had been published by *Rolling Stone* magazine. It was one of the Davidson photographs depicting an employee smoking a cigarette, wearing a black T-shirt marked “Event Security,” standing near the stage door. Feeney positively identified this man as the person who had placed his hand on Donna Mitchell’s shoulder and instructed her to use the front door. Feeney’s statement recites that he later came to learn the identity of this male as Scott Vieira. He was shown Station Fire Davidson photograph 22003.032jpb (the photo that had been published in *Rolling Stone*) by Detective Roland Coutu, and Feeney again confirmed that this was the photo he had located on the Internet and that the person in the black T-shirt in the foreground was the person who told Donna she had to use the front door. Also, captioned Davidson photo appearing in “Rock Band Great White Offers \$1 Million to Settle Fatal Nightclub Fire Suits,” by Eric Tucker, Associated Press, in the *Western Star*, September 2, 2008, Canadian Press, identifying Scott Vieira as the cigarette-smoking bouncer. Also, in a witness statement taken from John Arpin on February 28, 2003, Q. 92–108, Arpin identified the cigarette-smoking bouncer wearing the Station T-shirt in the Davidson *Rolling Stone* photograph as Scott Vieira.
- 81 *Gina Russo needed no photographs* Gina Russo with Paul Lonardo, *From the Ashes* (West Conshohocken, PA: Infinity Publishing, 2010), 137.
- 81 *Other survivors reported* See, e.g., witness statement of John Gibbs, March 1, 2003.
- 81 *The cheerful giant, who once balanced a canoe* Memorial Biography of Tracy King, *Providence Journal*, March 20, 2003.

13. FIGHTING FOR AIR

- 82 “*Fire is an exothermic oxidation reaction* John D. DeHaan, *Kirk’s Fire Investigation*, 5th ed. (Upper Saddle River, NJ: Prentiss-Hall, 2002), 21.
- 82 “*self-sustaining chain reaction requiring combustible fuel* Ibid.
- 82 *Fire requires about a 16 percent concentration* Ibid., p. 24.
- 82 *We require 12 percent* D. A. Purser, “Toxicity Assessment of Combustion

- Products,” in *Society of Fire Protection Engineers’ Handbook of Fire Protection Engineering*, 3rd ed., ed. P. J. DiNenno (Bethesda, MD: SFPA, 2002).
- 82 *Room air has only 21 percent* DeHaan, *Kirk’s Fire Investigation*, 23.
- 83 *Fire can be defeated in the battle* John Jay College of Criminal Justice, City University of New York, Department of Protection Management, Division of Fire Science Course Materials, *Introduction to Fire Science*, Section 2, Unit 1, Fire Behavior (Flannery Associates, 2002).
- 83 *Few of us realize, however* DeHaan, *Kirk’s Fire Investigation*, 22.
- 83 *Wax melts, undergoes pyrolysis* Ibid., p. 26.
- 83 *The process was aided by the low-density* “Report of the Technical Investigation of the Station Nightclub Fire” (hereafter, NIST Report), National Institute of Standards and Technology, Technology Administration, U.S. Department of Commerce, §4.3.
- 83 *Heat can be transferred in three ways* DeHaan, *Kirk’s Fire Investigation*, 33.
- 83 *Conduction is the transfer* Ibid., 34.
- 83 *Convection is the transfer* Ibid., 35.
- 83–84 *The third method of heat transfer* Ibid., 36.
- 84 *Because hydrogen is found in almost all fuels* Ibid., 41.
- 84–85 *In addition to the water vapor ... ten to fifteen feet per second* Ibid.
- 85 *Karen Gordon and her husband* Witness statement of Karen Gordon, February 26, 2003.
- 85 *When this layer reaches a critical temperature* DeHaan, *Kirk’s Fire Investigation*, 42.
- 85–86 *Computer modeling and full-scale testing* NIST Report, p. 5–41.
- 86 *Sometimes a room fire will consume too much available* DeHaan, *Kirk’s Fire Investigation*, 43.
- 86 *Where the video focuses back on the front doors* Brian Butler videotape, February 20, 2003.
- 86 *As to temperature, it is generally believed* Purser, “Toxicity Assessment,” 2–106, 2–125, 2–127.
- 86 *As the NIST investigation generally concluded* NIST Report.
- 86 *According to the NIST models* Ibid., figs. 5–55a and 5–61a.
- 86–87 *While temperatures five feet off the floor in the main bar area* Ibid., fig. 5–55a.
- 87 *Sure enough, the Butler video* Brian Butler videotape.
- 87 *Once the superheated gas layer* Linda Fisher, in discussion with the author, July 7, 2011.
- 87 *In addition to keeping temperatures survivable* NIST Report, p. 5–56,

figs. 5–62a, b.

87 *The NIST report concluded Ibid.*, p. 5–45, figs. 5–57a, b.

14. A SNOWBALL'S CHANCE IN HELL

- 88–89 *On the evening of the Great White concert* Witness statement of Shamus D. Horan, February 25, 2003; Shamus Horan, in discussion with the author, July 15, 2011.
- 89 *As seen on Butler's video* Brian Butler videotape, February 20, 2003.
- 89 *Consistent with the reconstruction* NIST Report, p. 5–42.
- 89 *Driven back by flames and smoke* Witness statement of Shamus Horan; Shamus Horan discussion with author.
- 89–91 *Gary Beineke and his wife, Pam ... with singed hair and scraped limbs* Grand jury testimony of Gary Beineke, October 29, 2003; witness statement of Pamela Beineke, March 11, 2003; grand jury testimony of Paul Vanner, May 7, 2003.
- 91 *One beneficiary was Stephanie Simpson* Witness statement of Stephanie Simpson, March 8, 2003; Michael Corkery and Paul Edward Parker, "Life and Death," *Providence Journal*, December 21, 2003.
- 91 *Another person who escaped through a window* Witness statement of Katherine Randall, February 21, 2003.
- 91–92 *Mike Ricardi, a nineteen-year-old* Witness statement of Michael Ricardi, February 25, 2003; Ellen Barry and Rahja Mishra, "Tragedy in Rhode Island; Music, Then Disaster," *Boston Globe*, February 22, 2003; Laurel J. Sweet and Tom Farmer, "Nightclub Nightmare: Fate Brought Fire Victims Together for Show," *Boston Herald*, February 26, 2003.
- 92 *The Denny's breakfast gang* Witness statements of Richard Sanetti, March 1 and April 10, 2003.
- 92 *At 11:17 p.m. a West Warwick police dispatcher* Witness statement of Captain Gregory L. Johnson, West Warwick Police Department, March 1, 2003, p. 2, line 1.
- 92 *According to the NIST computer simulations* NIST Report, figs. 5–55a, 5–61a.
- 92 *Long after the fire, when Richard Sanetti* Corkery and Parker, "Life and Death."
- 92–93 *Back at the front windows of the bar* Witness statements of Richard Sanetti.
- 93–94 *Besides the three HJY interns ... where the bar door was located* Grand jury testimony of Jennifer Choquette, May 19, 2003.
- 94 *John Arpin and Paul Vanner were somehow* Witness statements of John R. Arpin, February 21 and 28, 2003; grand jury testimony of Paul Vanner,

- May 7, 2003.
- 94 *Scooter Stone made it from the light board* Witness statements of David M. Stone, February 20, 2003, and February 22, 2003; witness statement of Julie Mellini, February 23, 2003.
- 94 *Using the kitchen door* Grand jury testimony of Paul Vanner.
- 94 *Shot girl Rena Gershelis wondered* Witness statement of Irina M. Gershelis, February 25, 2003.
- 94–95 *Julie Mellini would not have left* Witness statement of Julie Mellini, February 23, 2003; Corkery and Parker, “Life and Death”; Lynn Ardit, “The Station Nightclub Disaster—3 at the Station Paid off the Books,” *Providence Journal*, March 14, 2003.
- 95 *One nonemployee who found his way* Witness statement of Stephen Eldridge, February 21, 2003.
- 95–96 *A few patrons escaped despite an initial period* Witness statement of Harold Panciera, July 9, 2003; transcript of CNN interview with Harold Panciera, February 22, 2003; Corkery and Parker, “Life and Death”; Harold Panciera, in discussion with the author, July 29, 2011.
- 96 *Brian Butler’s video from outside* Brian Butler videotape.
- 96 *Panciera never learned the identity* Harold Panciera discussion with author.

15. THE WAY OF ALL FLESH

- 97 *The anonymous Station fire victim* Brian Butler videotape, February 20, 2003.
- 97 *Had land mammals, including humans* Robert L. Sheridan, “Thermal Injuries” (chap. 94), in *Fitzpatrick’s Dermatology in General Medicine*, 7th ed., ed. Klaus Wolff et al. (New York: McGraw-Hill, 2008).
- 97–98 *And skin was an extraordinary evolutionary development* David H. Chu, “Development and Structure of Skin” (chap. 7), in Klaus Wolff et al., *Fitzpatrick’s Dermatology*.
- 98–99 *When skin is burned* Richard F. Edlich and John C. Moghtader, “Thermal Burns” (chap. 53), in *Emergency Medicine, Concepts and Clinical Practice*, 4th ed., ed. Peter Rosen (St. Louis: C. V. Mosby Co., 1998).
- 99 *Prior to Boston’s 1942 Cocoanut Grove nightclub fire* John C. Esposito, *Fire in the Grove* (Boston, Da Capo Press, 2005), 145–55.
- 99 *Human skin is pretty tough stuff* Edlich and Moghtader, “Thermal Burns.”
- 99–100 *For example, a patron of The Station* NIST Report, pt. 1, fig. 5–55a; Edlich and Moghtader, “Thermal Burns,” fig. 53–2.
- 100 *Depth of burns is categorized by degrees* Ibid.; Sheridan, “Thermal Injuries.”

- 100–101 *Because different areas of the skin* Edlich and Moghtader, “Thermal Burns.”
- 101 *Reports of fire injuries commonly speak of “smoke inhalation”* Jacob S. Loke, “Thermal Lung Injury and Acute Smoke Inhalation” (chap. 65), in *Fishman’s Pulmonary Diseases and Disorders*, 3rd ed., vol. 1, ed. Alfred P. Fishman (New York: McGraw-Hill, 1998).
- 101 *When Station patrons like Stephanie Simpson* Witness statement of Stephanie Simpson, March 8, 2003; witness statement of Katherine Randall, February 21, 2003.
- 102 *According to the NIST computer simulations* NIST Report, pt. 1, fig. 5–61a.
- 102 *With serious burns comes the possibility of fatal insult to circulation* Colleen Ryan, in discussion with the author, January 20, 1995; Edlich and Moghtader, “Thermal Burns,” 948.

16. DOMINO THEORY

- 103 *Erin Pucino, the Derderians’ gas station clerk* Pietra (née Erin) Pucino, in discussion with the author, July 7, 2011; Ellen Barry, Raja Mishra, and *Globe* staff, “Tragedy in Rhode Island: Music, Then Disaster,” *Boston Globe*, February 22, 2003; witness statement of Erin Pucino, February 23, 2003.
- 103 *One young woman within the stack* Grand jury testimony of Elizabeth Laposata, July 14, 2003, pp. 74–75.
- 104 *From outside the front doors, the situation* Witness statement of Patrolman Mark Knott, February 28, 2003.
- 104 *Skott Greene, the genial proprietor of* Michael Corkery and Paul Edward Parker, “Life and Death,” *Providence Journal*, December 21, 2003.
- 104 *Among those near the front doorway* Witness statement of John Fairbairn, February 22, 2003; witness statement of Andrea Fairbairn, February 26, 2003.
- 104–5 *Outside the scrum, Patrolman Bettencourt* Witness statement of Patrolman Anthony Bettencourt, February 26, 2003; grand jury testimony of Anthony Bettencourt, June 9, 2003; Tom Mooney, “Saving Lives at the Open Gates of Hell,” *Providence Journal*, April 13, 2003.
- 105 *One would-be rescuer was Jason Nadeau* Witness statement of Jason Nadeau, March 26, 2003; Corkery and Parker, “Life and Death.”
- 105 *Robert Cripe, a truck driver from West Warwick* Witness statements of Robert Cripe, February 21 and 25, 2003; Corkery and Parker, “Life and Death.”
- 105 *When Patrolman Knott heard kicking* Witness statement of Patrolman

- Mark Knott.
- 105–6 *Robert Riffe had been in the crush* Witness statement of Robert Riffe, February 22, 2003; Robert Riffe, “A First-Person Account from a Survivor,” projo.com, February 24, 2003; witness statement of Christopher Scott, September 25, 2003.
- 106 *Patrolman Knott saw that no* Witness statement of Patrolman Mark Knott.
- 106–7 *Elizabeth Arruda had come to The Station* Witness statement of Elizabeth A. Arruda, February 23, 2003.
- 107 *Several survivors who escaped the crush* NIST Report, pt. 1, p. 6–4.
- 107–8 *Erin Pucino was still trapped in the pileup* Pietra (née Erin) Pucino, discussion with author; Barry, Mishra, and *Globe* staff, “Tragedy in Rhode Island”; witness statement of Erin Pucino, February 23, 2003.
- 108 *Late-arriving Gina Gauvin had made it* Witness statement of Gina Gauvin, October 17, 2003; Ally Donnelly, “One Woman’s Survival Story of the Station Nightclub Fire,” New England Cable News, NECN.com, February 20, 2008.
- 108 *Once Erin Pucino regained feeling in her legs* Pietra (née Erin) Pucino, discussion with author; Barry, Mishra, and *Globe* staff, “Tragedy in Rhode Island”; witness statement of Erin Pucino.

17. THE SOUND AND THE FURY

- 109 “*Oh, My God*” Brian Butler videotape, February 20, 2003.
- 109 *Sixty-four children under the age of eighteen* Third Amended Master Complaint in *Gray v. Derderian et al.*, CA No. 04–312-L, USDC–RI.
- 109–10 *Joe Cristina and Matthew Pickett came* Witness statements of Joseph Cristina, April 29 and May 1, 2003; Katherine Boas, Memorial Biography of Matthew Pickett, *Providence Journal*, March 20, 2003; witness statement of Joseph Pickett, February 13, 2004.
- 110 *They contained Matthew’s personal effects* Personal effects inventory for Matthew Pickett, Rhode Island State Medical Examiner, February 23, 2003.
- 110 *credit cards, heat-fused into a ball of plastic* Witness statement of Dennis Dunham, September 19, 2005.
- 110 *at the left edge of the frame, Matthew Pickett’s striped sweater sleeve* Ibid.
- 111 *His name was Jeff Rader* Duane Serfass, in discussion with the author, June 9, 2009. (Serfass, a close friend of Rader’s, identified Rader as the man in the photo, pointing out the “Tesla” logo on Rader’s shirt that he and Rader had jointly designed.)

- 111 *Rader, thirty-two, lived with his mother* S. I. Rosenbaum, Memorial Biography of Jeffrey Rader, *Providence Journal*, March 20, 2003.
- 111 *During his visit in February 2003* Witness statement of John Kubus, February 26, 2003.
- 112 *the naïveté described by Professor Proulx* Guylene Proulx, in discussion with the author, August 29, 2008.
- 112–13 *When Detective Roland Coutu* Memorandum to Detective Roland Coutu, West Warwick Police Department, from ATF Audio/Video Forensic Specialist Steve Greene, May 11, 2005 (transcription of notes from November 11, 2004, through January 28, 2005, for Case No. 762070–03–0056).
- 113–14 *Pickett’s tape begins with fifteen minutes* Matthew Pickett audiotape, February 20, 2003.
- 114 *Disaster sociologist Lee Clarke notes* Lee Clarke, “Panic: Myth or Reality,” *Contexts* (American Sociological Association, University of California Press), vol. 1, no. 3 (Fall 2002): 21–26.
- 114–15 *While Matthew Pickett’s recorder was memorializing* Brian Butler videotape.

18. INTO THE BREACH

- 116–17 *Nearly an hour after hose streams* Witness statement of Raul Vargas, February 22, 2003; grand jury testimony of Raul Vargas, October 29, 2003; Cathleen F. Crowley, “A Survivor’s Story: Saved by a Pileup,” *Providence Journal*, March 10, 2003.
- 117 *Lieutenant Roger St. Jean was a* Witness statement of Roger St. Jean, March 28, 2003; grand jury testimony of Roger St. Jean, July 16, 2003; witness statement of Aaron Perkins, March 14, 2003; Tom Mooney, “Saving Lives at the Open Gates of Hell,” *Providence Journal*, April 13, 2003.
- 117–18 *Each station had a pumper truck* Titan Report, A-1.
- 118 *At one point, St. Jean turned* Witness statement of Patrolman Mark Knott, February 28, 2003, p. 16.
- 118 *Under standard firefighting protocol* Titan Report, A-12.
- 118 *This was accomplished by Fire Captain Kevin Sullivan* Ibid.
- 118–19 *Engines and ladder trucks from other West Warwick stations* Ibid., A-12–14, fig. A-6.
- 119 *Two three-inch supply lines* Ibid., A-11.
- 119 *Then, one Cranston fire company mistakenly laid* Ibid.
- 119 *West Warwick’s Special Hazards Unit* Ibid. A-16.
- 119 *About thirty minutes into the firefighting* Ibid.

- 119 *West Warwick Engine 1 laid three hundred feet* Ibid., A-12.
- 119–20 *Detectives Gary Appolonia and Brian Araujo* Mooney, “Saving Lives at the Open Gates of Hell.”
- 120 *Patrolman Jason Senerchia approached The Station* Ibid.
- 120 *As a result, policemen Bettencourt and Knott* Witness statement of Mark Knott, February 28, 2003, p. 17; witness statement of Patrolman Anthony Bettencourt, February 26, 2003; witness statement of Captain Gregory Johnson, March 1, 2003.
- 120 *Patrolman Stephen Vannini was among* Witness statement of Patrolman Stephen Vannini, February 21, 2003; Mooney, “Saving Lives at the Gates of Hell.”
- 121 *Officer Michael Sullivan of the Warwick police arrived* Witness statement of Michael Sullivan, February 25, 2003.
- 121 *Great White’s tour bus was parked lengthwise* Witness statement of Captain Gregory Johnson; witness statement of John Kubus, March 4, 2003.
- 121–22 *Back in a parking lot across the street from the burning Station* Witness statement of Frank Davidson, February 22, 2003; transcript of recorded phone conversation between Frank Davidson and Paul Vanner, February 28, 2003 (Rhode Island State Police controlled call); transcript of recorded phone conversation between Frank Davidson and Kevin Beese, March 1, 2003 (Rhode Island State Police controlled call); witness statement of David Stone, February 26, 2003.
- 122 *Later that evening, when the flames* Witness statement of Roger St. Jean; witness statement of Aaron Perkins.
- 122 *That night, two drunks slumped* Peter Ginaitt and Leo Kennedy, “Station Fire Emergency Response,” presentation at Hasbro Children’s Hospital, Providence, February 27, 2008.
- 122–23 *As he stepped from his fire truck, Captain Kevin Sullivan* Titan Report, A-11.
- 123 *He would later learn that West Warwick* Witness statement of Sergeant Thomas Hannon, February 25, 2003.
- 123 *This group was soon joined by* Ibid.
- 123–24 *Warwick rescue captain Peter Ginaitt* G. Wayne Miller, “Amid Screams, Rescue Workers Go About Grim Task,” *Providence Journal*, February 23, 2003; Ginaitt and Kennedy, “Station Fire Emergency Response”; Meaghan Wims, “At the Station,” *QuadAngles* (University of Rhode Island), vol. 20, no. 4 (Summer 2008); Titan Report, B-4–21.
- 124 *Thirty-four rescue units and twenty-three private ambulances* Titan Report, B-4, 5.

- 124 *West Warwick dispatchers turned to the Yellow Pages* Ibid., B-7, 21.
- 124 *Ginaitt and Kennedy not only triaged victims* Ginaitt and Kennedy, “Station Fire Emergency Response.”
- 124 *The system worked remarkably well* Titan Report, B-15.
- 125 *The Cowesett Inn served not only as a medical triage center* Ibid., D-5.
- 125 *One somewhat disquieting feature* Ginaitt and Kennedy, “Station Fire Emergency Response.”
- 125 *As far as the firefighting was concerned* Titan Report, A-16.
- 125 *At 11:30 p.m., the West Warwick Police* Ibid., E-73; Jay Kingston, in discussion with the author, July 29, 2011.
- 125 *His next call was to Rhode Island’s chief state medical examiner* Jay S. Kingston, “Scene Investigator’s Report of Incident Scene Findings,” State of Rhode Island Office of the Medical Examiner, February 23, 2003; Jay Kingston, discussion with author.
- 125 *Unlike television coroners* Richard A. Gould, in discussion with the author, May 19, 2009; Jay Kingston, discussion with author.
- 125–26 *So, despite no fewer than five telephone calls* Kingston, “Scene Investigator’s Report”; Titan Report, D-7, E-78; Jay Kingston, discussion with author.
- 126–27 *Instead, only one investigator from the ME’s office* Kingston, “Scene Investigator’s Report”; Jay Kingston, discussion with author.
- 127 *Removal of thirty-one victims from the front hallway* “Location of 96 Bodies” diagram, NIST Report, fig. 5–54.
- 127 *Consistent with preferred protocol for mass casualties* Titan Report, E-62–63.
- 127 *Seventeen hours earlier, as flames shot into the night sky* Witness statement of Cara DelSesto, May 5, 2003.

19. SOLID GASOLINE

- 128 *In 1970, three nightclub owners in Saint-Laurent-du-Pont* “1970: Nightclub Inferno ‘Wipes Out Generation,’” BBC News, On This Day, November 1, 1970; <http://news.bbc.co.uk>; “An Unusual Silence,” *Time*, November 16, 1970; <http://www.time.com>; affidavit of David P. Demers, P.E., Document no. 1698–5, filed October 29, 2007, in *Gray et al. v. Derderian et al.*, CA No. 04–312-L, USDC–RI, §16 (citing “White Grotto Becomes Black Tomb,” *Fire Journal*, National Fire Protection Association, May 1971).
- 128 *It made the pair’s previous paean to pot-inspired kids’ fantasy* Sid and Marty Krofft denied that *H. R. Pufnstuf* was short for “Hand-Rolled Puffing stuff.” However, the show’s theme song, currently accessible on

- YouTube, leaves the question open. (“H. R. Pufnstuf, he can’t do a little ’cause he can’t do enough ...”) Consistent with the oeuvre, the brothers’ other children’s show was called *Lidsville*.
- 128–29 *Polyurethane was the brainchild of Otto Bayer* Mary Bellis, “Polyurethane,” in “1937–1949—Invention, Research and Development,” Bayer Industries Polyurethanes Business Group; G. Wayne Miller and Peter B. Lord, “It’s Just About Everywhere,” *Providence Journal*, September 28, 2003.
- 129 *In order to understand how knowledge of foam plastic’s* A. J. Steiner, “Fire Hazard Tests of Building Materials,” *Quarterly of the National Fire Protection Association* 37, no. 1 (July 1943); Francis L. Brannigan, *Building Construction for the Fire Service*, 3rd ed. (Jones & Bartlett Publishers, 1992), 410–11; Robert Brady Williamson and Frederick W. Mowrer, “The Role of Interior Finish in Fire Development,” *Fire Protection Engineering*, September 22, 2004; Robert Brady Williamson, “The Role of Foam Plastics in Fire Development and a Brief History of How Foam Plastics Have Been Treated in the U.S.,” University of California, Berkeley; “Standard Test Method for Rate of Burning and/or Extent and Time of Burning of Cellular Plastics Using a Specimen Supported by a Horizontal Screen” (ASTM D-1692), American Society for Testing and Materials.
- 130–131 *Up until 1974, manufacturers of PU foam* *In the Matter of the Society of the Plastics Industry Inc. et al.*, Federal Trade Commission, Docket No. C-2596, 84 FTC 1253, 1974 FTC LEXIS 35, November 4, 1974 (Complaint, Decision and Order) (hereafter, FTC Consent Order).
- 131 *The FTC’s investigation found that the Steiner tunnel test* Ibid.
- 131 *This is not to say that people seriously interested* Grand jury testimony of Joseph B. Zicherman, November 12, 2003.
- 131–32 *As a result of the FTC’s investigation* FTC Consent Order.
- 132 *Right after the consent agreement was entered* FTC Proposed Trade Regulation Rule entitled “Disclosure Requirements and Prohibitions Concerning the Flammability of Plastics,” 16 CFR Part 439, 39 *Fed. Reg.* 28292, August 6, 1974.
- 132 *However, the FTC soon abandoned that proposal* Eric Rubin, in discussion with the author, August 5, 2009. (Rubin was deputy assistant director of marketing practices, consumer protection, for the FTC during the plastics industry investigation leading up to the 1974 consent agreement.) The plastics industry maintains a cordial relationship with its federal regulators. As reported by the *Providence Journal* (G. Wayne Miller and Peter B. Lord, “Fatal Foam—the *Providence Journal* Burn

- Test,” *Providence Journal*, October 1, 2003), in the spring of 2003, shortly after the Station nightclub fire, Consumer Products Safety Commission chairman Hal Stratton was the keynote speaker at the Polyurethane Foam Association’s general business meeting. There, foam manufacturers, raw materials suppliers, and finished-goods makers listened as industry speakers blamed the Station tragedy on pyrotechnics and lack of sprinklers. None faulted the foam on the walls.
- 132 *Less than a year after gluing the bargain PU foam* WHDH Channel 7 “Burning Beds” video, AG’s First Disclosure, 03–582-PR.
- 132 *The question of whether fire-retardant PU foam* NIST Report, pt. 1, at sec. 4.5.2–4, pp. 4–17 to 4–25.
- 133 *In the building’s basement, under tons of rubble* Witness statement of Roland Coutu, “David Stone Identification of Foam,” March 28, 2003.

20. THE MISSING

- 134 *Be absolutely certain* Attorney General’s Fourth Disclosure, EMA Information–Family Resource Material.
- 134 *At daybreak, 211 Cowesett Avenue* Jennifer Levitz and Zachary R. Mider, “A Special Report—the Station Nightclub Disaster—Blaze, Smoke Engulf Victims within Seconds,” *Providence Journal*, February 22, 2003.
- 135–36 *In any disaster* Titan Report, pp. C-1, 2, 12.
- 135 *Donna Miele, Michael Hoogasian’s sister* Tom Mooney, Linda Borg, and Amanda Milkovits, “With Photos in Hand, Families Hold Out Hope,” *Providence Journal*, February 22, 2003.
- 135 *For most, it was the Crowne Plaza Hotel* Cathleen F. Crowley, “Shattered Relatives Wait for News,” *Providence Journal*, February 22, 2003.
- 135–36 *At 5 o’clock on the morning after the fire* Titan Report, pp. C-14, D-9, F-10–11.
- 136 *Early on, Rhode Island’s governor* Thomas Farragher, “Tragedy in Rhode Island—the Aftermath,” *Boston Globe*, February 23, 2003.
- 136 *In order to keep reporters* Titan Report, p. F-11.
- 136–37 *Jason Kinan and his family* Crowley, “Shattered Relatives.”
- 137 *Volunteers and professionals* Titan Report, p. F-14; Mark Arsenault, “The Station Nightclub Disaster—More Victims Identified as Distraught Families Learn of Their Loss,” *Providence Journal*, February 24, 2000.
- 137 *At various times* Crowley, “Shattered Relatives.”
- 137 *One newspaper reporter* Meaghan Wims, “Rhode Islanders Steel Themselves for the List of Dead,” *Providence Journal*, February 24, 2000.
- 137 *National news organizations* Whitney Casey, in discussion with the

- author, June 17, 2008.
- 138 *Even though The Station* Arsenault, “Station Nightclub Disaster”; Titan Report, p. F-13.
- 138–39 *Many relatives simply could not* Mooney, Borg, and Milkovits, “With Photos in Hand.”
- 139 *Hospitals faced difficult decisions* G. Wayne Miller, “Most Severe Victims Treated at Mass. General,” *Providence Journal*, February 22, 2003.
- 139 *Hospitals did their utmost* Michael Corkery, “An Agonizing Hospital Vigil for Family of One Woman,” *Providence Journal*, February 24, 2003.
- 139 *Given the confusion* Titan Report, p. F-14.
- 139–40 *Identification of the dead* Titan Report, pp. E-82–85.
- 140 *In one unanticipated way* Grand jury testimony of Elizabeth Laposata, July 14, 2003, pp. 57–91.
- 140 *As significant as what was on* Ibid., pp. 92, lines 9–13.
- 140 *One young victim’s* Ibid., p. 84, lines 12–13.

21. ARTIFACTS OF TRAGEDY

- 141 *Clad in Tyvek suits, surgical masks* Richard A. Gould, *Disaster Archaeology* (Salt Lake City: University of Utah Press, 2007), fig. 3.1, p. 55.
- 141 *And, following strict protocol* Ibid., p. 19; Richard A. Gould, “Report to Irving Owens, Rhode Island State Fire Marshal,” March 28, 2003 (hereafter, Gould Report), p. 3.
- 141 *Newspaper and web accounts* Gould Report, p. 3.
- 141 *Forensic archaeology is a relatively young discipline* Gould, *Disaster Archaeology*, chap. 1 (“What Is Disaster Archaeology?”), 7–35.
- 142 *If Sean Connery had been unavailable to play* Richard A. Gould, in discussion with the author, May 19, 2009 (hereafter, Gould Interview).
- 142 *Three weeks after the fall of the twin towers* Gould, *Disaster Archaeology*, 21–35.
- 142–43 *With official permission, Gould returned to Manhattan* Ibid., 36–49.
- 143 *Indeed, when the victim identification process* Ibid., 46.
- 143 *Less than a year after FAR’s trial excavation* Ibid., 52–53; Gould Report, p. 1.
- 143 *Owens took the Station tragedy very personally* Gould Interview; Gould, *Disaster Archaeology*, 65.
- 143 *Two particular challenges to this “dig”* Gould, *Disaster Archaeology*, 58; Gould Report, p. 2.

- 143–44 *The FAR team arrived on the morning of February 27* Gould, *Disaster Archaeology*, 54; Gould Report, pp. 1, 3.
- 144 *Rather than separate the area into permanent grids* Gould, *Disaster Archaeology*, 54; Gould Report, p. 4.
- 144 *The team had originally intended to wet-sieve* Gould, *Disaster Archaeology*, 58; Gould Report, p. 3.
- 144 *All artifacts, biological and otherwise, were bagged* Gould Report, p. 3.
- 144 *On any given day, an average of nine to thirteen volunteers* Ibid.
- 144 *Viewers, including bandaged survivors and grieving families* Gould, *Disaster Archaeology*, 54.
- 144 *Because of this constant observation, FAR's protocol* Gould, *Disaster Archaeology*, 19, 56; Gould Report, p. 3.
- 144 *Professor Gould's concern that firefighting, rescue* Gould Report, p. 6.
- 145 *When an object is believed to lie* Ibid., pp. 5–6.
- 145 *Not surprisingly, the areas of the club* Gould, *Disaster Archaeology*, 65; Gould Report, pp. 5–7.
- 145 *where fire temperatures had exceeded 1,800 degrees* NIST Report, 5–47.
- 145 *FAR's resident forensic anthropologist, Gabriel Flores* Gould Report, p. 5.
- 145 *Among confusing finds were* Handwritten field notes of FAR team, March 1, 2003.
- 145 *The area between the stage and the ticket counter* Gould Report, p. 9.
- 145–46 *One personal item, a cell phone, was particularly troubling* Linda Borg, "Brown Archaeologist Finds Deeper Meaning in Makeshift Memorials," *Providence Journal*, February 20, 2004.
- 146 *One family made a special request of the medical examiner's office* Gould, *Disaster Archaeology*, 65; Gould Report, p. 7.
- 146 *Some areas proved harder to search than others* Gould Report, p. 6.
- 146 *The storeroom where ten bodies were found* Ibid., p. 7; NIST Report, fig. 6–14.
- 146 *two fire extinguishers found by the FAR team* Gould Report, p. 7.
- 146 *The team was asked by the fire marshal to look for any nine-volt batteries* Ibid.
- 146 *340 buckets of fill* Ibid., p. 9.
- 146 *eighty-eight discrete personal effects of victims and fifty-four biological specimens* Gould, *Disaster Archaeology*, 85; Gould Report, p. 9.
- 146 *They used the full panoply of archaeological tools* Gould Report, p. 4.
- 146 *FAR kept an EMT-certified safety officer* Ibid., p. 2.
- 146 *Team members were not permitted to excavate or sieve alone* Ibid.
- 146 *Fortunately, there was a propane-heated tent* Ibid.

- 146–47 *By the eighth day of work, however* Ibid., p. 7.
147 *Brown student Zach Woodford stood shivering* Ibid.; Gould, *Disaster Archaeology*, 65.

22. CIRCLING THE WAGONS

- 148 *We had permission to use* Witness statement of Cara DelSesto, May 5, 2003.
148 *At no time did I* Witness statement of Jeffrey Derderian (written statement), February 20, 2003, line 8.
148 *Our inspector missed nothing* Douglas Belkin, “Inspector’s Actions Are Scrutinized,” *Boston Globe*, February 27, 2003.
148 *Our officials were doing* Letter from Wolfgang Bauer to Governor Donald Carcieri et al., March 19, 2003, quoted by Tom Mooney in “The Station Nightclub Disaster—Town’s Bid for Aid with Fire Lawsuits Gets Little Support,” *Providence Journal*, August 1, 2003.
148 *For this reason, court rules* Federal Rule of Evidence 803(2).
149 *Dan Biechele and Jack Russell said* Witness statement of Dan Biechele, February 20, 2003; witness statement of Cara DelSesto.
149 *the Derderians, emphatically, “No.”* Witness statement of Jeffrey Derderian, February 20, 2003.
149 *One of the facts supporting* Tour Advance Sheet for Great White appearance at The Station, February 20, 2003; Mark Arsenault, Paul Edward Parker, and Tom Mooney, “Extra: The Station Fire—Filling in Some Blanks,” *Providence Journal*, November 9, 2007.
149 *Additionally, in earlier venues* Witness statement of Daniel Biechele, p. 13; Witness statement of Terry Barr, February 21, 2003, pp. 1–2.
149 *Even more telling were arrangements* Witness statement of John Lynch, February 28, 2003, pp. 6–7, 15; confirmed by witness of statement of Jeffrey Franklin, March 5, 2003.
149 *Five hours after the fire ... White asked Derderian* Narrative for Detective George E. Winman, West Warwick Police Department, February 21, 2003, pp. 2–3.
149 *Unknown to Derderian* Transcript of interview of Daniel Biechele, March 3, 2003 (witness statement, p. 85; transcript p. 70). Biechele first showed Russell how pyrotechnic gerbs worked after a concert in San Diego in either December 2002 or January 2003.
149–50 *No matter that W.A.S.P.* Biechele interview, March 3, 2003 (as to W.A.S.P.); witness statement of John Mellini, February 23, 2003 (as to Holy Diver); grand jury testimony of Rev Tyler, April 16, 2003 (as to Lovin’ Kry); witness statement of Clifford Koehler, February 25, 2003

- (as to Lovin' Kry, Hotter Than Hell, W.A.S.P. and Human Clay); witness statement of Frank Davidson, February 22, 2003 (as to Human Clay); witness statements of Robert Conti and Nathan Conti, February 27, 2003 (as to Dirty Deeds); grand jury testimony of Edward Ducharme, April 29, 2003 (as to 10/31).
- 150 *Two days later* Witness statement of Kevin Beese, February 22, 2003, p. 43, Q. 321.
- 150 *On the other hand* Ibid., p. 42, Q. 319.
- 150 *And, as for pyrotechnics* Ibid., p. 61, Qs. 433, 434.
- 150 *Whatever Beese had learned* Witness statement of Frank Davidson, February 22, 2003; grand jury testimony of Frank Davidson, April 22, 2003.
- 150 *So, Davidson told his whole history* Ibid.
- 150–51 *In his second statement* Witness statement of Kevin Beese, February 25, 2003, pp. 109, 110, 139.
- 151 *Asked if he ever tried* Ibid., pp. 139–40, Qs. 232–35.
- 151 *In his statements to investigators* Witness statement of Frank Davidson, February 22, 2003; grand jury testimony of Frank Davidson, April, 22, 2003.
- 151 *In a statement given four days* Witness statement of Paul Vanner, February 22, 2003, p. 14–15, Qs. 29–30, p. 15, Qs. 35–38; controlled call from Frank Davidson to Paul Vanner, February 28, 2003, pp. 58–59 (as to saying he didn't know Frank Davidson).
- 151 *One woman gave police* ATF interview of Mary Ellen Grelle, February 26, 2003.
- 151 *On the day after the fire* Zachary R. Mider, "The Station Nightclub Disaster—Inspections: Rare, Informal—Records Differ on Capacity of The Station," *Providence Journal*, March 15, 2003.
- 151 *He "strongly denied"* Laurel J. Wett and Doug Hanchett, "Nightclub Blaze Kills at Least 96," *Boston Herald*, February 22, 2003.
- 151 *Confirmatory interviews and body counts* Paul Edward Parker, "462 Were in The Station on Night of Fire," *Providence Journal*, December 3, 2007.
- 152 *In a taped police interview* Witness statement of Denis Larocque, February 25, 2003, p. 8, Q. 42.
- 152 *Perhaps Larocque forgot* Memorandum from West Warwick Police Department chief Peter Brousseau to West Warwick Fire Department acting chief Gerald Tellier, November 15, 1999 ("Subject: Filling Station").
- 152 *It probably also* Letter from West Warwick Fire Department battalion chief Denis Larocque to Triton Realty Limited Partnership, December 13,

- 1999.
- 152 *Perhaps Larocque had also forgotten* Letter from West Warwick Fire Department chief Richard J. Rita to West Warwick Town Council, February 18, 2000; witness statement of Denis Larocque, February 25, 2003, p. 28.
- 152 *Given the post-fire confusion* Memorandum from Timothy A. Williamson “To Whom It May Concern,” March 14, 2003, regarding Public Records Request—The Station.
- 152 *A true “change in use or type of occupancy”* Rhode Island General Laws, Title 23, chap. 28.1, sec. 6.
- 153 *Pool tables take up the same amount* Ibid., pp. 52–53.
- 153 *Larocque used just five square feet* Ibid., pp. 23–24.
- 153 *Hiring a firefighter does not* Ibid., p. 28.
- 153 *The town manager pronounced that* Tom Mooney and Zachary R. Mider, “The Fire Marshal,” *Providence Journal*, December 18, 2003.
- 153 *The response of Fire Chief Hall* Douglas Belkin, “Inspector’s Actions Are Scrutinized,” *Boston Globe*, February 27, 2003.
- 153–54 *Town Manager Wolfgang Bauer took* Tom Mooney and Zachary R. Mider, “Fire Inspection Records Show Violations, Not Foam, at Club,” *Providence Journal*, March 4, 2003. Emphasis mine.
- 154 *Bauer asserted, “At the outset,* Letter from Wolfgang Bauer to Governor Donald Carcieri et al., March 19, 2003, quoted by Tom Mooney in “The Station Nightclub Disaster—Town’s Bid for Aid with Fire Lawsuits Gets Little Support,” *Providence Journal*, August 1, 2003.
- 154 *Wolfgang Bauer was in no hurry* Tracy Breton and Zachary Mider, “Town Hall Seen Releasing Nightclub Records Next Week,” *Providence Journal*, March 1, 2003.
- 154 *In his call, Vanner volunteered* Controlled call from Frank Davidson to Paul Vanner, February 28, 2003; witness statement of Frank Davidson, p. 41–42, transcript pp. 28–29.
- 155 *Contrary to the statements he gave police* Controlled call from Frank Davidson to Kevin Beese, March 1, 2003; witness statement of Frank Davidson, p. 147, lines 17–21.
- 155 *As far as Beese was concerned* Ibid., p. 152, lines 2–3.
- 155 *Unaware that the call was being recorded* Ibid., p. 152, lines 7–22.
- 155 *told them to be careful not to “burn my building down”* Controlled call from Frank Davidson to Paul Vanner, February 28, 2003; witness statement of Frank Davidson, p. 62.
- 156–57 *The all-too-simple answer* Ibid., witness statement of Frank Davidson, pp. 54–55, 58–59; controlled call from Frank Davidson to Kevin Beese;

- witness statement of Frank Davidson, pp. 67–68.
- 157 *Jack Russell told Larry King* CNN, *Larry King Live*, “Rhode Island Club Fire Tragedy Revisited with Members of Rock Band Great White,” aired February 9, 2005.
- 157 *Ed McPherson, Russell’s lawyer* Ibid.
- 157 *Barry Warner, the neighbor* Mooney and Mider, “Fire Inspection Records Show Violations.”
- 157 *According to Warner* Witness statement of Barry Warner, November 3, 2005 (“A.G.’s 4th Disclosure”), p. 35, transcript p. 9, lines 12–20.
- 157 *Warner’s sworn grand jury testimony* Grand jury testimony of Barry Warner, June 4, 2003, p. 20, lines 5–16.
- 157–58 *The Providence Journal reported* Scott MacKay and Alex Kuffner, “Nation’s Media Converge on Town,” *Providence Journal*, February 22, 2003.
- 158 *Actually, on the video* Brian Butler videotape, 8:10–14:50.
- 158 *Triton Realty Company’s lawyer* Jennifer Levitz, “The Entrepreneurs,” *Providence Journal*, December 17, 2003.
- 158 *Moreover, under their Triton Realty lease* Letters and memos from Mary Jo Carolan to Michael Derderian dated February 20, 2002, March 18, 2002, March 26, 2002, March 28, 2002, and April 18, 2002; March 2002 sales report for The Station (indexed by AG under Carolan witness statement [4], p. 24).
- 158 *The Derderian brothers filed for personal bankruptcy* Voluntary Petition for Individual Bankruptcy, filed by Michael Derderian on September 23, 2005, Case 1:05-bk-13641 in United States Bankruptcy Court, District of Rhode Island; Voluntary Petition for Individual Bankruptcy, filed by Jeffrey Derderian on September 23, 2005, Case 1:05–bk-13640, in United States Bankruptcy Court, District of Rhode Island.
- 158 *Triton Realty transferred* Conveyances of June 13, 2003, from Triton Realty Limited Partnership to Framingham-150 FR Realty Limited Partnership and to Seekonk-226 Limited Partnership; March 13, 2003, conveyance of 16 Dennell Drive, Lincoln, Rhode Island, to Frances A. Villanova.
- 158 *Corporate behemoth Shell Oil Company* Witness statement of Thomas J. Stimson, sales representative for Motiva / Shell Oil, April 9, 2003, Rhode Island State Police Case 03–414-OF WWPD; handwritten chronology of Danny Saad (prior owner of gas station).

23. CRIME AND PUNISHMENT

- 159 *The first was characterized* Jonathan Saltzman and Raja Mishra, “Station

- Nightclub Deal Stuns R.I.," *Boston Globe*, September 21, 2006.
- 159 *The minority position ProJo* (*Providence Journal*) newsblog comment of Maximo Deacaba, May 9, 2006, 11:52 a.m.
- 160 *Historically, legal scholars* Kate E. Bloch and Kevin C. McMunigal, *Criminal Law: A Contemporary Approach* (New York: Aspen Publishers, 2005), chap. 2, sec. C, pp. 31–32.
- 160 *States' criminal codes variously* Ibid., chap. 6, sec. C.
- 160 *Some states have a second* See, e.g., *State v. Lillibridge*, 454 A.2d 237 (RI, 1982); *State v. Robbio*, 526 A.2d 509 (RI, 1987).
- 161 *Rhode Island's criminal code contains both* Title 11, chap. 23, sec. 3 (and cases cited in annotations thereto).
- 161 *A Rhode Island grand jury* Associated Press, "About Grand Juries in Rhode Island," *Providence Journal*, February 26, 2003.
- 161 *Six days after the fire* Mark Arsenault, Tracy Breton, and W. Zachary Malinowski, "Musicians Expected to Be Called Before Grand Jury Today," *Providence Journal*, February 28, 2003.
- 162 *Perhaps the most telling transcripts* Grand jury testimony of Denis Larocque, June 25, 2003.
- 162 *His assertion that he simply didn't notice* Ibid., pp. 46–47.
- 162 *Larocque's capacity calculations* Ibid., pp. 20–25.
- 162 *When jurors themselves sought to* Ibid., pp. 105–7.
- 162 *Not surprisingly, when, after ten months* Instructions to Grand Jury, indexed by Attorney General's Department under Testimony of Roland Coutu, vol. 10, November 19, 2003, pp. 18–21 (Grand juror: "My question is, is the town exempt from any liability on the part of a deficient inspection?" p. 18 [51 on page itself], lines 10–12; "I would just like to know more about the standards of practice of what a fire inspection entails." p. 19 [52 on page itself], lines 22–24; "I would think the question is, *can he be charged criminally?* Not liable. I mean, we know there going to be liability. *Can he be charged criminally?*" p. 21 [54 on page itself], lines 5–7. Emphasis mine.
- 162 *On December 4, 2003, the grand jury* Grand jury testimony, "Deliberations & Indictments," December 4, 2003, pp. 19–28; Superior Court for the County of Kent, Indictments K1–2003–0653A (Biechele), K1–2003–0654A (J. Derderian), K1–2003–0655A (M. Derderian).
- 162 *Days after the fire, it was determined* Neil Downing, "Nightclub Had No Workers' Comp, Records Show," *Providence Journal*, February 28, 2003.
- 162–63 *The brothers were apparently aware* Lynn Arditi and W. Zachary Malinowski, "Derderians Ran One Business with Insurance, One Without," *Providence Journal*, May 1, 2003.

- 163 *Their contract with Eddie Money* Contract for Eddie Money's appearance at The Station on February 5, 2002, ¶ 21 (II).
- 163 *When Boston's Cocoonut Grove nightclub Commonwealth v. Welansky*, 316 Mass. 383, 55 N.E.2d 902 (1944).
- 163–64 *Accordingly, in May 2006, Biechele agreed* Sentencing Memorandum of Judge Francis J. Darigan, May 10, 2006, K1/2003–0653A.
- 164 *Before hearing victims' impact statements* "The Judge Explains the Rules," *ProJo Stationblog*, Associated Press, May 9, 2006.
- 164 *Evelyn King, widow of club bouncer* "I Knew I Would Never See Him Alive," *ProJo Stationblog*, May 8, 2006.
- 164–65 *A burn-scarred Gina Russo* "I Ask That the Court System Provide the Proper Justice," *Ibid*.
- 165 *The father of Jimmy Gahan* "I'm Here to Relate What Jimmy Might Say," *Ibid*.
- 165 *Michael Hoogasian's sister asked* *Ibid*.
- 165 *Bridget Sanetti's mother described* "Envious of the Dying," *ProJo Stationblog*, May 9, 2003.
- 165 *Despite the judge's admonition* "The Judge Explains the Rules," *ProJo Stationblog*, May 9, 2003.
- 165 *First, Assistant Attorney General Randall White* "Prosecutor Wants Full 10 Years for Biechele," *ProJo Stationblog*, May 10, 2006.
- 165 *Next, Dan Biechele's attorney* "Biechele's Lawyer: My Client Is the Only One to Apologize," *ProJo Stationblog*, May 10, 2006.
- 165 *Next came Biechele's turn to speak* "Full Text of Biechele Apology," *ProJo* (Associated Press), May 10, 2006.
- 165–66 *Then, it was time for Judge* Sentencing Memorandum of Judge Francis J. Darigan Jr., May 10, 2006.
- 166 *You get your son back after four years* Paul Edward Parker, "Biechele Gets 4 Years in Jail," *Providence Journal*, May 11, 2006.
- 166 *Dan Biechele would be eligible* *Ibid*.
- 167 *Statements had been taken* Attorney General's produced witness statements.
- 167 *it was anticipated that over 250 witnesses* Letter from Attorney General Patrick Lynch to families of Station fire victims, September 20, 2006, p. 2, ¶ 4.
- 167 *Particularly damning was the anticipated testimony* Witness statement of Lewis Cook, March 31, 2006.
- 167–68 *In September 2006, Judge Darigan* Letter of Judge Francis J. Darigan Jr. to Families of Station Fire Victims, September 20, 2006.
- 168 *Unfortunately, someone in Attorney General* Remarks of Hon. Judge

- Francis J. Darigan Jr. to the Press, September 21, 2006.
- 168 *On that overcast morning* Paul Edward Parker, “Station Fire: A Long Line of TV Trucks,” *ProJo Stationblog*, September 29, 2006.
- 168–69 *Judge Darigan stated in opening remarks* Jack Perry, “Station Fire: Darigan Won’t Change Sentences,” *ProJo Stationblog*, September 29, 2006.
- 169 *The father of Derek Johnson* Mike McDermott, “Station Fire: I Stand Here a Broken Man,” *ProJo Stationblog*, September 29, 2006.
- 169 *The brother-in law* Mike McDermott, “Station Fire: Victimized ... Over and Over Again,” *ProJo Stationblog*, September 29, 2006; Andrea Panciera, “Station Fire: Frustration, Tears in Overflow Courtroom,” *ProJo Stationblog*, September 29, 2006.
- 169 *The mother of John Longiaru* Mike McDermott, “Station Fire: ‘Trial Would Have Been Too Hard on Judge, AG,’” *ProJo Stationblog*, September 29, 2006.
- 169 *Dina DeMaio’s mother* Mike McDermott, “Station Fire: Frustration Hard to Contain,” *ProJo Stationblog*, with photo by Bob Breidenbach, September 29, 2006.
- 169 *Gina Russo turned* Mike McDermott, “Station Fire: ‘We Tried to Get Out,’” *ProJo Stationblog*, September 29, 2006.
- 169–70 *Victims’ disappointment* Sentencing statements of Jeffrey Derderian and Michael Derderian, September 29, 2006 (emphasis mine); notwithstanding Michael Derderian’s promise in his sentencing statement to “do everything we can so that every question can be answered,” both he and his brother, Jeffrey, declined the author’s request to be interviewed for this book.
- 170 *Judge Darigan’s explanation* Jack Perry, “Alert: Station Fire: Darigan Imposes Sentences,” *ProJo Stationblog*, September 29, 2006.
- 171 *As for Larocque ... he may have been the beneficiary* Rhode Island General Laws, Title 23, chap. 28.2, sec. 17.
- 171 *the single reported case interpreting it* *Vaill v. Franklin*, 722 A.2d 793 (RI, 1999).
- 171 *Responding to criticism over not indicting Larocque* Mark Arsenault, “See How They Run,” *Rhode Island Monthly*, December 2009, p. 76.
- 172 *Under this concept* Ninth Circuit (Federal) Pattern Jury Instruction (Criminal Cases), chap. 3, § 3.18.
- 172 *The contract documents* Great White contract for appearance at The Station on February 20, 2003, ¶ 4(a). Emphasis mine.
- 172 *Four months before the* Katherine Gregg, “Update: Lynch Announces His Exit from Governor’s Race,” *ProJo 7-to-7 News Blog*, July 15, 2010.

- 172 *That month, workmen removed Edward Fitzpatrick, “Quote from Spiderman to Cling Outside AG Office,” Providence Journal, March 31, 2004.*

24. “FIRST, SURVIVAL; THEN, FUNCTION; THEN, COSMETICS”

- 173–74 *By mid-morning on February 21, 2003* Lydia Polgreen, “Months Past Club Fire, a Struggle to Go On,” *New York Times*, May 4, 2003; Mark Patinkin, “At the End, Her Lips Moved, and It Seemed Her Head Nodded,” *Providence Journal*, May 11, 2003.
- 174 *“This is Pam,” said Anna Patinkin, “At the End, Her Lips Moved.”*
- 175 *Several fortunate coincidences favored Rhode Island Hospital* David Harrington, MD, “Rhode Island Hospital Response to Station Fire,” presentation for First Responder CME, Hasbro Children’s Hospital, Providence, February 27, 2008.
- 175 *Care of critically burned patients* Richard F. Edlich and John C. Moghtader, “Thermal Burns” (chap. 53), in *Emergency Medicine, Concepts and Clinical Practice*, 4th ed., ed. Peter Rosen (St. Louis: C. V. Mosby Co., 1998).
- 175–76 *As explained by Colleen Ryan, MD* Colleen Ryan, in videotaped discussion with the author, January 20, 1995.
- 176 *Eventually, all debrided areas must be grafted with the patient’s own skin* This was state of the art at the time of the Station fire. Since then, however, surgeons have been able to use permanent cadaver skin grafts that have been specially treated to prevent their rejection by the burn victim’s body.
- 176–77 *When Gina Gauvin’s doctors at UMass. Medical Center* Felice J. Freyer, “Against the Odds,” *Providence Journal*, October 26, 2003; Felice J. Freyer, “Saving the Patient,” *Providence Journal*, October 27, 2003; Felice J. Freyer, “Road to Recovery,” *Providence Journal*, October 28, 2003; Felice J. Freyer, “Going Home,” *Providence Journal*, October 29, 2003.
- 177–78 *Joe Kinan, the amateur body-builder* Joe Kinan, in discussion with the author, January 24, 2008; Angie Cannon, “Looking for Answers in the Ashes,” *U.S. News and World Report*, February 8, 2004.
- 178–79 *During the two and a half months that Pam Gruttadauria* Polgreen, “Months Past Club Fire, a Struggle to Go On,” and Patinkin, “At the End, Her Lips Moved.”⁴
- 179 *That night, Pam Gruttadauria, age thirty-three* Ninety-six persons lost their lives at the site of the Station fire. Another four died of their burns days or weeks later. Their names and ages appear alphabetically in an

appendix to this book.

- 179 *On May 24, 2006, Jack Russell appeared* Transcript of *Extra* television broadcast, May 24, 2006.
- 179 *Three thousand miles to the east, Joe Kinan* Joe Kinan, discussion with author; Cannon, “Looking for Answers in the Ashes.”

25. RISKY BUSINESS

- 181 *The United States Supreme Court, in Bates v. State Bar of Arizona* 433 U.S. 350 (1977).
- 183 *Just twelve days after the fire Roderiques et al. v. Town of West Warwick et al.*, CA No. PC-03–1084, Superior Court for the State of Rhode Island, Providence County.
- 183 *a basic statutory requirement in Rhode Island that the town first be given* Rhode Island General Laws, Title 45, chap. 15, sec. 5.
- 183 *Another case, filed by a heavy advertiser just six days later Kingsley et al. v. Derderian et al.*, CA No. PC-03–1171, Superior Court for the State of Rhode Island, Providence County.
- 184 *Appointed by the state Superior Court* Pretrial (Case Management) Order No. 2 in *Gray et al. v. Derderian et al.*, CA No. 04–3985, Superior Court for the State of Rhode Island, County of Providence, May 27, 2003, Gibney, J.
- 185 *In at least two comical instances* Plaintiffs’ Objection to Defendant, Home Depot, USA, Inc.’s Motion to Dismiss the Third Amended Master Complaint, filed on June 6, 2006, Pacer Doc. No. 895, in *Gray v. Derderian*, CA No. 04–312-L, USDC–RI (whereby “the Plaintiffs, Tammy Passa, et al., Ronald Kingsley, et al. and Andrew Paskowski, et al., hereby join and adopt the Opposition and Memorandum of the Gray Plaintiffs to Defendant, Home Depot USA, Inc.’s Motion to Dismiss the Third Amended Master Complaint”). The objection and memorandum of the steering committee—“Gray Plaintiffs”—were filed two days later, on June 8, 2006, under Pacer Doc. No. 900; Plaintiffs’ Objection to Defendant, Certain Underwriters at Lloyd’s, London’s Motion to Dismiss First Amended Master Complaint, filed on February 11, 2005 (whereby unidentified plaintiffs represented by Ronald J. Resmini, Esq., “incorporates [*sic*] *Gray’s* [*sic*] Memorandum in response to Defendant’s Motion to Dismiss Plaintiff’s First Amended Complaint”). The steering committee’s objection and memorandum were filed six days later, on February 17, 2005.
- 185–86 *As a result of the PSC’s deliberate approach* Master Complaint of Superior Court Plaintiffs’ Steering Committee in *Gray et al. v. Derderian*

- et al.*, CA No. 04–3985, Superior Court for the State of Rhode Island, County of Providence, July 22, 2004.
- 186 *So, on November 2, 2002* Title 28, Section 1369, *United States Code*.
- 187 *Judge Lagueux was seventy-two years old* “Welcome to the United States District Court, District of Rhode Island,” webpage, November 16, 2009, USDC–RI.
- 187 *Plaintiffs’ counsel were as dejected as* Transcript of Status Conference held on October 26, 2004, for consolidated Station fire civil cases, *Gray et al. v. Derderian et al.*, CA No. 04–312-L, USDC–RI. Emphasis mine.
- 187 *The defense attorney for Clear Channel Broadcasting was actually heard by the court stenographer* Ibid.
- 188 *On May 27, 2003* Pretrial (Case Management) Order No. 2 in *Gray et al. v. Derderian et al.*, CA No. 04–3985.
- 188 *At the first federal court conference in the consolidated cases* Transcript of Status Conference, October 26, 2004.
- 189 *That document, 224 pages in length* Third Amended Master Complaint in *Gray et al. v. Derderian et al.*, CA No. 04–312-L, USDC–RI, Pacer Doc. No. 695, February 15, 2006.

26. MAKING THE TOUGH CASES

- 191 *Erin Pucino claimed to be an eyewitness* Affidavit of Pietra (née Erin) Pucino, August 15, 2007.
- 191 *Another patron, Frederick Vallente* Witness statement of Frederick Vallente, November 6, 2003.
- 192 *Butler could not have disagreed more strongly* Affidavit of Brian Butler in Support of Motion for Summary Judgment, March 5, 2007, in *Gray et al. v. Derderian et al.* (hereafter, *Gray*), CA No. 04–312-L, USDC–RI, p. 2, ¶ 6.
- 192 *We also knew that Gonsalves’s weekly salary* Pay stub for Michael Gonsalves from Clear Channel Communications Inc. for period ending February 28, 2003.
- 192 *Warner himself alleged* Fax from “A Knowledgeable Source” to Randy White of the Rhode Island Attorney General’s Office, May 28, 2003, acknowledged as sent by Barry Warner, in witness statement of Barry Warner, November 3, 2005.
- 192 *Plaintiffs alleged that the foam was defective because* Third Amended Master Complaint in *Gray*.
- 193 *The PU foam manufacturing defendants would have none of it* Motions of General Foam Corp. and Leggett & Platt Inc. for Summary Judgment, in *Gray*, Doc. Nos. 1231 and 1241 (April 9, 2007).

- 193 *Moreover, the possible PU foam manufacturers contended* Ibid.
- 193 *The Derderians' lease* Lease between Triton Realty Limited Partnership and DERCO LLC, March 1, 2000.
- 193 *That warranty ran only to the Derderians* Defendants, Triton Realty Limited Partnership, Triton Realty Inc., and Raymond J. Villanova's Memorandum of Law in Support of Summary Judgment, April 9, 2007 (Gray Doc. No. 1192) pp. 16–17.
- 194 *Unfortunately, the same Rhode Island statute* Rhode Island General Laws, Title 23, chap. 28.2, sec. 17
- 195 *Because of their ownership of the Busch Gardens and SeaWorld theme parks* NFPA Standard 1126, 2001 ed., "Standard for the Use of Pyrotechnics before a Proximate Audience," National Fire Protection Association, 2001, p. 1126–2.
- 195 *Budweiser had only to visit Great White's website* Affidavit of Jeffrey L. Hair, November 21, 2004, filed with Memorandum of Law in Support of Plaintiffs' Objection to the Motion of the "Clear Channel Defendants" to Dismiss or, in the Alternative, for Summary Judgment, November 22, 2004.
- 195 *Our investigation revealed that on the night* Memorandum in Support of McLaughlin & Moran Inc.'s Initial Motion for Summary Judgment, April 9, 2007 (Gray Doc. No. 1209), p. 8; Defendants Clear Channel Broadcasting Inc. and Capstar Radio Operating Company, as successor-in-interest to WHJY Inc.'s statement of Undisputed Facts in Support of their Motion for Summary Judgment, April 9, 2007 (Gray Doc. No. 1246), pp. 9–10, ¶ 28; grand jury testimony of WHJY employee Jeremy Gately, May 28, 2003, p. 13.
- 196 *It didn't hurt plaintiffs' claim that the pyro manufacturer* Interview of Scott J. Ward by ATF special agents Josh Legere and Josh Rusk, June 23, 2003, in which Ward stated that the owner of Luna Tech Inc. called him "10–14 days after the Station fire" to give Ward the "heads up" that his license number had been improperly used two years earlier to sell gerbs to Randy Bast, who in turn sold them to Dan Biechele.
- 196 *For years before the Station fire, multiple insurance companies* Inspection Reports of High Caliber Inspections Inc., April 4, 1996, and March 25, 1998; Gifford & Co. Inc., August 27, 1999; Abacus Service Co., April 27, 2000; Multi-State Inspections Inc., October 8, 2002.
- 196 *The insurance inspections defendants argued* Motions of Underwriters at Lloyd's, London (February 4, 2005) and Essex Insurance Co. (August 25, 2004) to Dismiss the Complaint, in *Gray*.
- 196 *And Judge Lagueux agreed* Decision and Order, In Re Motions to

- Dismiss of Defendants Essex Insurance Company, Multi-State Inspections, Inc., and High Caliber Inspections, Inc., November 9, 2005, *Gray Doc. No. 587*; In Re Motion to Dismiss of Defendant Certain Underwriters at Lloyd’s, London, December 6, 2005, *Gray Doc. No. 608*; In Re Motions to Dismiss of Defendants Anchor Solutions Company, Inc. (previously Abacus Service Company, Inc.), V. B. Gifford & Company, Inc., Gresham & Associates of RI, Inc., and Surplex Underwriters, Inc., December 13, 2006, *Gray Doc. No. 1122*.
- 198 *Rhode Island’s joint tortfeasor contribution statute* Rhode Island General Laws, Title 10, chap. 6, secs. 7, 8.
- 200 *Once I realized there was a fire* Affidavit of Brian Butler in Support of Motion for Summary Judgment, March 5, 2007, p. 2, ¶ 6. Emphasis mine.
- 200 *What that analysis revealed was striking* Brian Butler videotape, February 20, 2003, at 7:00–8:00 (run time).
- 200 *“You need a live truck down here* Ibid. at 14:33 (run time).
- 201 *settlements would be struck with most* Groupings of defendants, and their respective settlement contributions, are set forth in Exhibit D to “Master Release, Indemnity and Settlement Agreement,” *Gray Doc. No. 2041–3*, December 11, 2009.
- 201 *I had the opportunity to show members of the West Warwick Town Council* Presentation before West Warwick Town Council, April 2, 2008.

27. BURNING QUESTION

- 204 *Julian spent the better part of a day* Deposition of Howard Julian, January 10, 2006, [page]/[line(s)]: 9/19; 10/1–10&25; 11/1–2; 15/7–10&22–25; 16/1–4; 18/24–25; 19/21–25; 20/1–10 20/24–25, 21/1–3.
- 204–5 *Mickey Mikutowicz’s Black Sabbath tribute band* Statement of Michael Mikutowicz, September 15, 2005.
- 205 *Inside the club* Deposition of Howard Julian, p. 32, lines 17–25.
- 205 *At his first inspection of The Station* Deposition of Howard Julian, p. 33, lines 1–2; Field Inspection Notice of Denis Larocque, March 2, 2000.
- 205 *Several weeks later, however, the Derderians* Deposition of Timothy Arnold, May 2, 2005, pp. 28–38.
- 205 *Mikutowicz’s band, Believer, was scheduled to play* Coming-attractions poster from The Station, February 2003.
- 205 *The night of the fire, Mickey watched the story* Statement of Michael Mikutowicz, pp. 10–11.
- 206 *Even the NIST investigators seemed troubled* NIST Report, March 2005, pp. 4–14.
- 207 *One of the objects photographed* Exhibit 04–0283-PR, evidence at West

- Warwick Police Department, viewing of July 1, 2005.
- 208 *Mickey's video statement documented* Statement of Michael Mikutowicz; list of Believer appearances at The Station, 1996–2002.
- 208–9 *According to Julian* Deposition of Howard Julian [page/line]: 24/24 (“a foam business”), 25/9 (“Rhode Island”), 23/25; pp. 24–29, inclusive.
- 209 *and Sealed Air Corporation* Technically, “Sealed Air Corporation” was dismissed as a defendant. Its related corporation, “Sealed Air Corporation (US)” remained as a defendant in the lawsuits.
- 209 *its flagship product, BubbleWrap* BubbleWrap began its life in 1957 as a failed attempt at flocked 3-D wallpaper. In a moment of genius (and, possibly, consideration for interior decorators worldwide), its inventors realized that the product had more potential as a packing material.
- 210 *Lovely pie-charts from that research* “AVI Laminated Planks Market Share, 1995–1996” chart.
- 210 *Arnold finally admitted that, as he watched Julian* Affidavit of Timothy Arnold, June 19, 2007, ¶ 9–15.
- 211 *So it probably saw no harm* Motion for Summary Judgment by Defendant Sealed Air Corporation (US), April 9, 2007, Gray Doc. No. 1242, Exhibits A–C.
- 213 *They set fire to the structure* “Time of PE Involvement (PU&PE Sandwich, Modified Corner)” chart, Western Fire Center Inc.
- 213–14 *The results were stunning* “Comparison of HRR [heat release rate] for PU Foam and PU+PE Foam Sandwich (Modified Corner Test)” and “Carbon Monoxide Production from PU and PE+PU Foam Sandwich (Modified Corner Test)” charts, Western Fire Center Inc.
- 215 *We came to learn that Sealed Air and Sentinel* Affidavit of John D. Bambara, June 4, 2008.
- 215 *Scott would use a standardized test methodology* See American Society for Testing and Materials, ASTM D2765, “Standard Test Methods for Determination of Gel Content and Swell Ratio of Crosslinked Ethylene Plastics.”
- 216 *My next PowerPoint slide was a direct quote* PowerPoint slide from Sealed Air mediation presentation, June 10, 2008.
- 216–17 *My comments today are restricted to the issue* Statement of Frederick W. Mowrer, Ph.D., P.E., FSFPE, to the Special Meeting of NFPA’s Technical Committee on Assembly Occupancies, March 13, 2003. Emphasis mine.
- 217 *Up went the slide showing Sealed Air’s resulting market share* PowerPoint slide from Sealed Air mediation presentation, June 10, 2008.

28. DIVINING THE INCALCULABLE

- 220 *Lawyers are prohibited by ethical rules* Rhode Island Rules of Professional Conduct (based upon ABA Model Rules of Professional Conduct), Rule 1.8(g).
- 220 *Only with each of his clients' informed consent* Ibid.
- 220 *Courts have the power to appoint individuals* Federal Rule of Civil Procedure 53.
- 220 *The special master eventually appointed by Judge Lagueux* Order of Reference to Special Master Francis E. McGovern, November 27, 2008, in *Gray*, Doc. No. 1735.
- 220 *McGovern had previously served Curriculum vitae* of Francis E. McGovern.
- 223 *In 2003, children of a decedent* Rhode Island General Laws, Title 10, chap. 7, sec. 1.2.
- 223–24 *Under that plan* Plan of Distribution of Special Master Francis McGovern, Exhibit 2 to Plaintiffs' Memorandum in Support of Their Motion for Approval of Special Master McGovern's Proposed Plan of Distribution, February 6, 2009, *Gray* Doc. No. 1949–2.
- 224–25 *Verification of each victim's medical expenses would be performed* Plaintiffs' Memorandum in Support of Their Motion to Appoint Jeffrey Dahl as Neutral Verification Expert, February 6, 2009, *Gray* Doc. No. 1950–2.
- 225 *In his final report to the court, special master McGovern* Preface to Proposed Plan of Distribution, by Special Master Francis McGovern, November 5, 2008.
- 225 *A document acceptable to all parties did not emerge* Exhibit 1 to Memorandum of Law in Support of Plaintiffs' Motion to Accept the Report and Recommendation of Special Master Poore and Approve Minors' Settlements, December 11, 2009, *Gray* Doc. No. 2041–2.
- 226 *In the mid-1990s, Perry Walton* Richard B. Schmitt, "Staking Claims: A Las Vegas Lender Tests Odds in Court—and Forms an Industry—Funding Lawsuits Pays Off for Mr. Walton," *Wall Street Journal*, September 15, 2000.
- 226 *By 1999, Walton was back operating* Ibid.
- 226 *The advance would only be collectible from the proceeds* Courtney R. Barksdale, "All That Glitters Isn't Gold: Analyzing the Costs and Benefits of Litigation Finance," 26 *Rev.Litig.* 707 (2007).
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