

Lest We Forget - 1978 In Memoriam 2008

By John Lippitt

James Michael (Jim) Lippitt, my only son, was born in San Francisco, October 18th, 1948. Shortly thereafter his mother suffered an injury after which Jim's care and feeding fell to me for the first few months of his life and a bond formed between us that was cemented with the passage of time.

Jim grew into a beautiful little boy and then matured into an outstanding young adult. I had been a flyer in WWII and for many years following something may have rubbed off on Jim. From as far back as I can recall he wanted to fly. When we lived in Hawaii during Jim's sophomore year in high school, he heard about a program teaching aspiring aviators to fly gliders at Bellows Field on the windward coast of Oahu.

Bellows Field, where the first Japanese midget sub was captured, December 7th, 1941, is ideally located for glider flying; the easterly trade winds swirl against the sheer cliffs of the Koolau Mountains keeping gliders aloft as long as pilots may desire. Jim soloed in short order and flew gliders the rest of the time we were in The Islands.

After high school, Jim enrolled in USF majoring in accounting, but his sights were set on flying. He became friends with Sarah Frances (Sally) LaBoyteaux, who was a classmate and by coincidence the daughter of one of my USF classmates, she majoring in nursing. In Jim's sophomore year he applied for the AVROC (Aviation Reserve Officer Candidate) Program. He

was among a select few accepted and spent the next two summers in a Marine boot camp in Pensacola, Florida. Upon graduation from USF in 1970, Jim received his commission as a Naval Officer. He and Sally were married soon thereafter and then they left to begin flight training in Pensacola.

Jim completed single engine training including carrier landing and launch from the USS Lexington. His final phase was at NAS Corpus Christi, Texas flying the twin engine Grumman S2 ("Stufe").

On graduation he was awarded the coveted Navy Wings of Gold and became a member of one of the most exclusive fraternities of superbly trained pilots in the world. Jim was assigned to Washington, DC, first at the Navy Yard and then to the Naval Detachment, Andrews AFB. Until he left the Navy in 1977, he accumulated some 5000 flying hours in the S2. In quest of a career as an airline pilot, he applied to United and Western, among others; in the interim, he took a position flying airtankers (S2's) for the CDF (Calif. Department of Forestry, now called "Cal Fire").

On the blazing hot afternoon of August 20th, 1978, two career troublemakers, Cary Bartlett and Gary Berchtold decided the sun-parched dry brush along the Branscombe Road in Mendocino County, California was made to order for a wildfire. While Bartlett played lookout at the wheel, Berchtold lit a series of matches without result; then to his hands and knees with the whole matchbook and the evil deed was done. With the fire underway, the

two fled the scene. Unfortunately for them, they were seen and recognized by passers-by.

CDF Airtanker 95, piloted by Jim Lippitt, was called around 5 pm and he immediately took off. Upon reaching the location, Jim had to make a steep descent and in leveling off, for reasons we can know, Airtanker 95 crashed practically into Berchtold's fire.

None of us will ever forget the day the police came to the door with the devastating news that we had lost our Jim. Among the emotions that followed were shock and disbelief. Because Bartlett and Berchtold were seen at the scene, they were shortly apprehended and that should have been the beginning of the end. Instead, it was the end of the beginning.

As if our loss of Jim were not catastrophic enough and things would not get worse, they did. It began to look as if a significant number in Mendocino County and elsewhere were ready to close ranks behind the perpetrators.

Some examples:

1. A woman in the DA's Office snapped when I called to ask the status of the case, "We don't have time to be answering the questions of people who call us. Don't bother us again."

2. I seemed every time I tried to learn about matters, there was a different deputy DA who gave the impression of knowing little or nothing about the case and having essentially minimum interest. It sounded as if he were handed the papers walking down the hall. One I did talk to told me he had "problems with the case." (It didn't seem as if he had any "problems" with the terrible crime that had been committed.)

3. A regional supervisor of the CDF in Santa Rosa made the incredible assertion, "It wasn't murder because they didn't mean to kill anyone." Section 189, California Penal Code says, anyone who starts a fire resulting in death is guilty of murder in the first degree, this official's claim to the contrary notwithstanding.

4. The discussion leader of a victims' group, who asked that I tell what happened, snapped back, "We've heard THAT story before. You can't call THAT murder." She never heard of Section 189 either, which is as old as the State of California.

5. A woman in my area, when told what happened, pontificated, "It was God's will." My response was that God didn't start that fire.

6. One of the most egregious lay in Bartlett's father, who it turned out, was actually a CDF fire ranger and was on of the first at the scene of his son's fire. So, he saw first hand what happened. Adding to it all, Bartlett Junior and Senior were living in CDF taxpayer quarters and especially galling was the spectacle of Bartlett Sr. chauffeuring Bartlett Jr. to the court house in a CDF vehicle at taxpayer expense. On top of all this I received a supposedly anonymous note mocking my son's sacrifice that I have no doubt at all originated from Bartlett Sr.

After the perpetrators were identified, there was a preliminary hearing that was more of a charade than anything. (I do not know if these two spent jail time or not.) That hearing was presided over by one Galen Hathaway. The "prosecution" by a deputy DA was so feeble and lackluster that Hathaway had no trouble dismissing everything

and turning the two arsonists loose.

It was like pulling teeth to learn what happened. But when I finally did, I went to District Attorney Allen and expressed my frustration and bewilderment over this mockery of justice. Allen re-filed charges and, who came down thirty miles from Willits to hear the case but the self-same Galen Hathaway. DA Allen presented the State's case and Hathaway recessed to consider matters. His "consideration" consisted of his sitting, feet up by the magazine rack, casually thumbing through ifs offerings. Hathaway's learned outcome involved dismissing everything all over again, not because of the absence of guilt, but because these two worthies had been denied a speedy trial, so they sauntered out the door with self-satisfied smirks. by way of rubbing a little salt into wounds, the public defender assured them with these soothing words, "It's all right."

With no other place to turn, a wrongful death action was filed. The defense lawyer, Leo Cook, came up with something called the Fireman's Rule in order to shift blame from the guilty to the innocent. To his eternal credit, Judge Broaddus summarily dismissed that specious ploy with these words, "This was a case of willful arson - the Fireman's Rule was not meant as a place of refuge for criminals."

Leo Cook offered the most insulting and scornful "alibi" during the civil trial, out loud and in front of judge and jury: "So he started a little fire. It didn't amount to much." So much for a "little fire" that took the life of my wonderful son and cost millions

in property losses.

The greatest damage came from a "fellow" airtanker pilot, who sold the jury on the fiction that it was all the victim's fault. There is a code among professional aviators that one does not sully or cast dirt upon the memory of a fallen comrade. This individual chose to ignore that, apparently for his own purposes, the answer likely being in his own words: "People in this business like arsonists because they make jobs." (He did not exclude himself). In what might be regarded as ironic retribution, this individual lost his own life sometime later in another arson fire, despite his many years of experience as compared to Jim's. (The perpetrator of that fire, to my knowledge, has never been identified.)

The civil jury, having bought into the above, voted eight to four in favor of arson. There matters have rested despite repeated requests to District Attorneys to file murder charges, including filing a suit in Mendocino Superior Court to force the issue. Since there is no statute of limitations on murder, the District Attorney could bring charges this very day. So far, each has refused to act. One DA, amazingly, sent me a letter in which she expressed this demand: " I must insist that you stop inciting the public."

It has been said that a man lives again in his own son; conversely, part of me died with my Jim. Jim is remembered every August 20th by CDF/Cal Fire with station flags at half staff. Jim is memorialized on a plaque in Larkspur, at Marin General Hospital and the Fireman's Memorial on the capitol grounds in Sacramento.

Epilogue

How have Jim's widow and children fared since that fateful afternoon in 1978? Prevailing opinion would likely have the widow on welfare; the children delinquents:

Sarah Frances Lippitt, RN (Sally), now 60, works as a nurse to this day-with time out for an advanced degree in nursing. After some years she remarried and enjoys such life and happiness as the trauma of 1978 has not extinguished.

James Michael (Mick) Lippitt Jr., 35, graduated in accounting at

USD (University of San Diego), played professional baseball in Barcelona Spain, passed the horrendous CPA Exam and worked in public accounting; then accepted a very attractive offer from Morgan Stanley where he has remained.

Amy Corinne, 33, graduated SF State, worked in real estate and is planning marriage in September.

Mary (Molly) Elizabeth, 30, graduated USD, straight A's in such abstruse subjects as chemistry and biology and is now an analyst at Sonoma Winery.

In a manner of speaking, it could be said that history has repeated

itself: Michael Francis (Mike) Tribolet, the "baby" of the family, upon whom my daughter bestowed Jim's and Sally's middle names, was born very premature on what should have been Jim's 30th birthday.

He grew and blossomed and he was a police cadet in high school; and then a volunteer fireman with time out for work in a lumber mill in Alaska. After service with the Marin County Fire as a seasonal, he was hired full time. He is also stand-in fire chief in Stinson Beach. As this is written (July) Mike is leading a strike team from Marin County battling wildfires out of Ukiah.

Jim would be proud!