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## In Hard Rock collapse probe, grand jury set to hear key witnesses as time for charges runs out

A parallel probe led by the federal Occupational Safety and Hazards Administration has slowed the criminal investigation.

BY DAVID HAMMER | WWL-TV

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Two large construction cranes attached to the Hard Rock Hotel in New Orleans come crashing down after explosive devices placed on them are detonated on Oct. 20, 2019.

STAFF PHOTO BY DAVID GRUNFELD

With time quickly running out for prosecutors to charge anyone in the catastrophic 2019 collapse of the Hard Rock Hotel, Orleans Parish District Attorney Jason Williams' office plans to bring two key witnesses before a grand jury Thursday, according to sources with knowledge of the probe.

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October will mark four years since the deadly collapse, and repeated delays in a federal agency's administrative case against the project's lead engineer now threaten to derail the criminal probe.

Construction crews had just completed the steel and concrete framing for the hotel when one side of the structure collapsed on the morning of Oct. 12, 2019. It killed construction workers Anthony Magrette, Quinnyon Wimberly and Jose Ponce Arreola, injured more than a dozen others, hurled debris into neighboring streets and businesses and shut down portions of North Rampart and Canal streets for more than a year.

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Crews had just poured heavy concrete on the 18th floor rooftop a week before the collapse and were removing temporary shoring poles, which provided extra stability while concrete cured, in the hours leading up to the disaster. Some of those metal supports could be seen in a video shot by a construction worker two days prior, bending under the weight of the 16th, 17th and 18th floors.

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A WWL-TV review of internal project documents found the property owner, 1031 Canal Development and lead developer Mohan Kailas, had requested changes to the building's design, including higher ceilings on the top floors and steel columns that weren't lined up with the ones below the 16th floor.



An attorney for Kailas said his ownership team relied on professionals, including lead engineer Heaslip Engineering and steel provider Hub Steel, “to determine the means and methods to safely construct the building, including specifying the size and type of all beams, columns and connections.”

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A report by an engineer at the federal Occupational Safety and Health Administration singled out Heaslip for approving a design where 81 of the beams supporting the upper three floors were “grossly undersized.” WWL-TV was able to review a copy of the leaked report in October 2021, which said the collapse was “waiting to happen.” Neither Kailas nor his firm were cited by OSHA.

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James Heaslip, the owner of the Metairie-based engineering firm, has repeatedly denied any wrongdoing, and is contesting serious and willful violations issued against his firm by OSHA. His administrative case has been delayed at least five times over the last three years. Just two weeks ago, the court hearing the case scheduled a final settlement conference for Heaslip and the U.S. Department of Labor.

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That delay has hampered the work of a five-person investigative team for Williams' office, which has been presenting findings to a state grand jury.

## **Deadline 'on the horizon'**

Two years ago, Williams sat down with WWL-TV and promised to “hold every single person criminally responsible if they were culpable in this particular incident.”

Williams issued a subpoena to OSHA for its investigative files on Sept. 20, 2021. But two years later, OSHA says its procedures prevent it from complying.

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“OSHA has not yet produced its investigation report due to ongoing litigation, as Heaslip Engineering is contesting its citations. This is all the information we can provide at this time,” Kimberly Darby of OSHA said by email Wednesday.

"Despite our repeated requests, multiple stakeholders have failed to turn over information relevant to the collapse," Williams' office said last week. "As we have done for the last two-plus years, we will continue to gather information for review in our investigation and are cognizant that the time limitation to bring criminal charges is on the horizon."

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Sources with knowledge of the investigation confirmed that a grand jury is scheduled to hear from two key witnesses Thursday: Matt Peace, the senior project manager, and Chris Berry, the assistant project manager. Both worked for the general contractor on the Hard Rock project, Citadel Builders.

What they say about the design of the building and whether concerns were raised before the collapse could determine if the grand jury votes to indict anyone for causing the disaster through negligence.

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There's another possible avenue for charges. A WWL-TV and Times-Picayune investigation found that three city inspectors – Julie Tweeter, Eric Treadaway and Thomas Dwyer – failed to show up for inspections of the Hard Rock project as required by city policies. Tweeter was a no-show on Oct. 1, 2019, the day she filed a report approving the pouring of heavy concrete on the rooftop.

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New Orleans Inspector General Ed Michel's office also found those inspectors didn't show up and sent a report to the DA in October 2022 recommending criminal charges for malfeasance in office and filing false public records. But it's unclear whether the inspectors would have seen any deficiencies if they had done the inspections in person, and Williams has said he's more interested in prosecuting those whose actions caused the collapse.

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Regardless of what happens with the grand jury, civil settlements may be in the offing. Dozens of lawyers representing plaintiffs in the case began in-person settlement talks last week through a court-appointed mediator. Both sides have declined to comment on the process.

Angela Magrette said there shouldn't be anything preventing the grand jury from handing up charges against the inspectors and those responsible for designing and building the Hard Rock. Her twin, Anthony "Bubba" Magrette, wasn't even supposed to work on Saturday, Oct. 12, 2019, but she said he filled in for a co-worker that morning. Now, she wants someone to pay.

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"I hope and pray every day that somebody's going to be held accountable for killing my brother," she said. "I don't call it an accident. I don't. It's crazy that I look forward to being able to change his death certificate from accident to negligent homicide."

Wimberly and Ponce's families agonized for 10 months as demolition crews tried to recover their remains from the rubble. As painful as that was for Wimberly's brother Frank Jr., he said his family just wants to move on. He said they are preparing themselves for the distinct possibility that nobody will be charged.

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“There’s nothing that could happen that will bring my brother back, that will bring Jose back, that will bring Anthony back. That is the ultimate tragedy, the ultimate heartache,” Wimberly said. “Would it be a disappointment if something is not done? Yes, but we are prepared either way.”