

CRIMINAL INVESTIGATION DIVISION

ASP-3-A

DATE: 5-3-88
DICTATED BY: INV. BIRDSONG
COPIES TO: BIRDSONG

INTERVIEW OF WITNESS

JERRY H. TOMLIN
1401 Nanette St.
North Little Rock, AR
home phone 372-3508
work phone 373-2162

This will be a taped interview conducted at the Saline County Courthouse in the Office of the Chancery Judge. Interview will be a taped interview taken with Mr. Jerry H. Tomlin. Address 1401 Nanette St., North Little Rock, Arkansas, home phone number is 372-3508. Employment is Union Pacific Railroad, phone number 373-2162. The date is May 3, 1988, the time is now approximately 8:55 a.m.

Birdsong: Okay Mr. Tomlin I have identified myself as a State Police Investigator is that true?

Tomlin: That is true.

Birdsong: And you do realize this is a taped statement?

Tomlin: Yes I do.

Birdsong: Okay Mr. Tomlin if you would in reference to an incident that occurred August 23, 1987 where two young men were killed. Would you relate what information you had concerning this.

Tomlin: Well we were coming north on 152 train number and we saw something green laying on the track and I made a statement, I said what's that on the track and they said the other crew men said I don't know. So we got closer and I told the engineer, I said big hole it or plug it something in the respect you know. Which put the train in emergency, the brakes and at that time we had discovered it was two men laying side by side on the rail.

Birdsong: How far away from the object did you first see it, do you think you first saw?

Tomlin: Oh probably less than a quarter of a mile when you could tell it was a bulk green something.

Birdsong: That there was something green on the track. When was you first able to observe that it was a body or bodies?

67-587-87

Tomlin: Oh we probably 100-200 feet just you know guess like.
Birdsong: 100-200 feet and you were traveling about how fast?
Tomlin: 50 miles an hour.
Birdsong: So that wouldn't leave you too much time. During that split second that you had from the time that you observed the bodies until they went under the train, what did you observe?
Tomlin: Just two guys laying side by side and the lower part of their body was covered by something green.
Birdsong: Okay was there anything laying beside them or?
Tomlin: There was a rifle laying on the north side of one of the boys.
Birdsong: How was it sitting?
Tomlin: It was laying the best I could see was from about the upper, the barrel part up, barrel and forearm and it was laying flat on the ground the best I could tell. The stock was under the cover.
Birdsong: The stock was under the cover?
Tomlin: As best as I could tell.
Birdsong: Did you see any movement what so ever?
Tomlin: I did not see any movement at all?
Birdsong: Could there have been movement that you would not have seen?
Tomlin: Well I don't think so because we was all standing looking over the nose of the engine and when they went out of sight, there had not been any movement at all up until that time.
Birdsong: Okay, where were you sitting at in the unit?
Tomlin: In the rear seat.
Birdsong: In the rear seat.
Tomlin: On the, would be the west side, what we call the west side.
Birdsong: Okay who was the engineer that night?
Tomlin: James (can't spell)
Birdsong: S-H-R-O-Y-E-R is that how you spell his name?
Tomlin: That's correct.
Birdsong: Okay the green thing that you say that you saw what do you feel like that it was?
Tomlin: It was some kind it looked like a tarp or a boat cover, something in that you know a light tarp or boat cover or something like that.
Birdsong: Now there was some particle board found on down the track, are you pretty sure there wasn't particle board laying on them?

Tomlin: No.

Birdsong: How was the tarp covering them?

Tomlin: From about their waist, approximately a little or maybe a little above their waist to their, down toward their feet.

Birdsong: Did it cover their feet. Were you able to see tennis shoes or anything?

Tomlin: I couldn't tell you that, I don't think that there was anything exposed that I could see, now there could have been on the other side but I don't think so.

Birdsong: Could you describe to me how the boys were laying?

Tomlin: They were laying side by side, their arms down by their side and the rifle was laying on the ground next to the north boy.

Birdsong: Okay by the north boy again, I'm kind of mixed up...

Tomlin: It will be the one closest to Alexander.

Birdsong: Okay be the further one from the train.

Tomlin: Right.

Birdsong: So it would be in the middle of them?

Tomlin: No the rifle was north of the north...

Birdsong: North of the last one, okay. Were their heads straight up or was they leaned to the side or?

Tomlin: The best that I could tell my belief they were looking straight up.

Birdsong: Okay I noticed in one of the interviews that one of the, somebody said they thought they even saw their eyes was closed. Did you notice anything about their eyes?

Tomlin: Well I couldn't tell that they were open. They appeared to me to be closed.

Birdsong: But did you see that?

Tomlin: After I went back and found the bodies.

Birdsong: I'm talking about you know before the train actually hit them.

Tomlin: It looked like their eyes were closed.

Birdsong: Okay about how far from the train did ya'll start blowing the horn, and trying to alarm them, you know before the actual impact did you start blowing the horn on the train?

Tomlin: Oh it was very short, we didn't have time to blow it very long you know must a matter of second or so.

Birdsong: So from time, the horn would have been blown when you started big holing is that correct?

Tomlin: He put the train in emergency and hit the horn and by the time the horn blown we were on top of them.

Birdsong: So if they were able to hear it, you would have been on top of them at that time? I mean the train would have almost.

Tomlin: It would have been close.

Birdsong: Okay, now can you, describe to me the best that you can because I noticed in your statement that you observed the tarp that you talked about later on, after the incident had occurred and you got off the train. Where was it at?

Tomlin: It was laying at the bulk end of the bridge, where we hit the boys.

Birdsong: Okay did you see any blood on it or anything?

Tomlin: No I did not.

Birdsong: How close did you get to it?

Tomlin: Oh probably as close from here to that wall over there. Was shining my light down off the bridge, it was laying down the embankment.

Birdsong: Okay.

Tomlin: Alright, I'll put it this way a piece of a green tarp was laying down there.

Birdsong: But it matched the description of what you saw on the boys?

Tomlin: Yes.

Birdsong: Mr. Tomlin did you tell anybody about the tarp?

Tomlin: Yes I did.

Birdsong: Do you remember who you told?

Tomlin: I told the deputy, I believe his name is Tallent, I told two or three other people out there but nobody seemed to get it.

Birdsong: Okay, did any of them make any statement to you one way or the other when you told them about the tarp. Did they say anything to you?

Tomlin: No.

Birdsong: During, just before impact, uh before impact how long had you lost sight of them as they would go under the train?

Tomlin: I've looked several times after this happened to see, and they would probably have been six to ten feet of the train when they went out of sight from us.

Birdsong: Okay how far is that front piece off the ground, do you know?

Tomlin: The snow plow?

Birdsong: Yea.

Tomlin: Oh I'd say approximately a little better than a foot.

Birdsong: About a foot.

Tomlin: About a foot I don't know exactly.

Birdsong: How long have you been working for the railroad?

Tomlin: It will be 29 years the 21st day of November.

Birdsong: Okay, I'm sure during that 29 years you've been able to observe other things on the track at time, is that correct?

Tomlin: Sure.

Birdsong: Like I say again I haven't been on the train, you know I don't know what you can and can't see. But, how is the visibility, I mean is it good visibility?

Tomlin: Well it depends, some head lights are better than the others you know just like on cars. But you can see oh I would say, nothing explicit but probably an eighth of a mile in front of you.

Birdsong: Okay and within a 100-200 yards of you what's the visibility?

Tomlin: Well you could see somebody walking or you know, like that movement or something like but something laying flat on the ground it would be hard to identify until you got closer than that to it.

Birdsong: Okay but you are absolutely sure they were in the position that you saw and nobody moved, neither one of them moved that you saw?

Tomlin: Not that I saw.

Birdsong: Alright the bodies, was both of their heads in about the same position?

Tomlin: Yes they were, laying side by side.

Birdsong: About how far back were they?

Tomlin: Well I would say they was over a foot probably.

Birdsong: Okay is there anything that you know of that you, that maybe you told somebody that hasn't been brought up or something that you need to tell me about what took place that you haven't already told any other investigator?

Tomlin: Not that I can think of.

Birdsong: And ya'll were going about fifty miles per hour?

Tomlin: That's right.

Birdsong: How far from time of impact were you, before you had sounded the horn before. How far away had you been.

Tomlin: Well I believe the name of it is Shole Road, it's probably about a half, three quarters of a mile up the track towards Benton from where we hit the boys.

Birdsong: Okay, in your opinion would the boys have been able to have heard the horn from where you first sounded it?

Tomlin: Oh definitely, definitely.

Birdsong: What kind of noise as far as the train itself without the horn or anything else, if you were laying on a track, using your 29 years of experience. What kind of noise and movement would there have been on that track?

Tomlin: That rail sings something awful, and vibrates, I don't see how anybody could lay there.

Birdsong: So if your head was laying up against, in the position that you're saying they were in they should have definitely heard that track.

Tomlin: Without a doubt.

Birdsong: Okay Mr. Tomlin this will be the end of this interview. The time is now approximately 9:08 a.m.

CRIMINAL INVESTIGATION DIVISION

ASP-3-A

DATE: 5-3-88
DICTATED BY: INV. BIRDSONG
COPIES TO: BIRDSONG

INTERVIEW OF WITNESS

JAMES STEPHEN SCHROYER
13111 #171 West Markham
Little Rock, AR
home phone 221-0011
work phone 373-2113

This will be a taped interview with Mr. James Stephen Schroyer, address 13111 #171 West Markham, Little Rock, AR. Home phone number is 221-0011, employment Union Pacific, phone number is 373-2113. The time is now approximately 9:32 A.M. on May 3, 1988. The interview is being conducted at the Saline County Circuit Courthouse in the Chancery Judge's Office.

Birdsong: Mr. Schroyer I have identified myself to you as a police officer is that correct?

Schroyer: That is correct.

Birdsong: And you do understand that this is a taped statement?

Schroyer: I understand it's a taped statement.

Birdsong: Mr. Schroyer if you would in reference to the incident that occurred where you were the engineer on the train in the deaths of these two young men. Would you give me a detail description of what happened that night.

Schroyer: Well the night in question was about approximately 4:30 in the morning. It was a dark night, I was the engineer on the north bound freight train, coming off the hill at Bryant into the bottoms of Alexander. Uh, I had uh, I was coming down the hill, operating train control, maintaining the control of my train.

Birdsong: You were saying you were maintaining control, does that mean you are having to apply some brakes?

Schroyer: I'm having to apply brakes and operate a conscious effort in my throttle and positions to maintain slack and speed coming off the hill into the bottoms. Uh, came by Shrove Road crossing and did a mandatory whistle blow at the crossing.

Birdsong: How long does that whistle usually blow?

Schroyer: Time wise I really couldn't tell you, there's a whistle established distance and it begins at a whistle board. I'd say it's twenty five

seconds or longer. I think state law is twenty five seconds but I believe the whistles are normally longer than that. Two long blast a short blast and another long blast until you occupying continual across the crossing which is what we did. And uh, we were operating just at fifty miles an hour and coming down through the bottoms, there was patches of mist and fog, early morning mist and fog would come in and come out, they were laying low on the ground. And everything was going much as usual until I saw something on the right of way at about the same time my conductor said to me you know something to the effect what is this, what is that. Something of that nature. I said I don't know and I leaned up in my seat and attentively looked at what the object was I was looking at. When we got right up on the object, I'd say six pole lengths, five to six pole lengths away, I recognized it to be two young boys, two young men. And uh, it was at that time I heard my conductor holler out big hole it, as he was hollering that I was in the process of reaching for my brake. I set the brake on the train to emergency, I continued standing up to a total standing position and immediately hit the horn. Which I continued to blow until we had impact. I would say the seconds were four or five seconds after the emergency application. Uh, the uh, the boys that we saw were laying side by side, they were not very far apart at all. They had a weapon just furtherest north of the north most boy. Also laying the same direction as the boys and about the same spaced out distance from the boys that the boys were from one another. Very 1,2,3, uh there was a piece of green material, very light, very faded. It looked very well worn laying out on the boys and had been blown back of the, or it had been removed off of the first boy folded back over the second boy. Somewhere around the waist area.

Birdsong: How much was on the first boy that you saw?

Schroyer: If there was any at all it would have been right on his ankles.

Birdsong: So he wasn't completely covered then?

Schroyer: No he was pretty well uncovered. I'd say he was, let's see the way it was folded back, his thighs or his knees some place like that area and back off of him. And then over the waist and you know double

folded over the second boy or the first boy. The second boy is the one that was uncovered. He did not have a shirt on, the first boy had a shirt on and was blue in color.

Birdsong: The one that had the shirt on was the one that had most of the covering over him?

Schroyer: That's correct. And uh, the boys were in a totally, from my observation in a totally relaxed position. There was no movement evident, there was no flinching evident. Even with the whistle and the train on top of them as it was. Uh their feet well on my side of the engine extending across the rail. And their feet were in a relaxed position, they really were.

Birdsong: When you talk about a relaxed position, like when you stand at attention your feet are straight.

Schroyer: When you lay down and you're relaxed your feet are not straight up and down they, one way or the other they slant. And the one thing that caught my thoughts was the fact that they was relaxed, asleep I guess, I would have immediately thought. But it just didn't, the thing that really caused me so much problem with the whole situation was the fact that they didn't flinch, didn't jerk, didn't move at all, either one of them. With all of it happening right there on top of them. And I never took my attention off of them, never took my eyes off the boys. My attention, right at the point of recognition was a big brilliant flash, apparently my headlights striking wood on that weapon. The next thing that I was totally aware of was the chest and the head of that second boy.

Birdsong: That's the one without the shirt.

Schroyer: The one without the shirt and I never, I never took my thoughts off of him. Uh,

Birdsong: How many years experience do you have with the railroad?

Schroyer: 17.

Birdsong: In your experience, say that even you hadn't had a chance to blow the horn which would have gave them time you know, should have made them flinch or whatever. The way the train is moving and if the horn hadn't even blown, if you're laying there on the track and your head is in the position they were in, what kind of noise would you be hearing?

Schroyer: Well I've never laid in front of a train, I've stood beside trains many times on inspection as they came through, 50, 60, 40, 30 and regardless of speed there is a tremendous amount of vibration, there's a tremendous amount of noise. It's inconceivable, well I don't know if it's inconceivable, it's unlikely that you would sleep through that.

Birdsong: So there should have been enough noise that they, if they were in a normal sleep they should have woke up?

Schroyer: In my judgement yes, definitely.

Birdsong: When you sounded the horn at Shrove Road should they have heard it?

Schroyer: Without a doubt, as a matter of fact the people in Alexander should hear it. Which is about a mile further north from where the boys were, I'd say. I don't know the exact distance but it's close.

Birdsong: So from the time that you observed that they were boys and the time that you had impact was about how much, how many seconds?

Schroyer: Somewhere in the neighborhood of four to six, I couldn't tell you exactly. I'll tell you something now, that really, at impact I became you know when the realization hit me, it hit me hard. And your immediate thought is my god please get out of the way. And you can't, it's a hopeless feeling there. When we hit them they rolled with us, stayed with the engines. And your immediate, your reaction to that at least my was a trauma situation occurred. And my thoughts and everything else, you know my god you know, I'm holding on, this is not really happening please, what ever you want to say. And I allowed my engines to lock up on me and uh, the next thing that I was absolutely aware of is hearing my wheels sliding and feeling my train operation just going to hell. And I immediately realized that I had to get back to the business at hand right now. And uh, I returned to my controls and I returned to my train operation and I controlled my train until we came to a complete stop. At which time my conductor was already on the radio telling a local behind us on an adjacent rail that we had hit some boys and to stop don't come back around us. We called dispatcher and notified him and told him to call the authorities and he said have you got any injuries or something to that effect and Jerry said no, we've got death I'm sure, we've got death they passed under us or something to that effect. Uh the intervening time we spent securing

the scene, my three crew members went back to mark the location of body parts. Myself stayed on the head end to maintain a communication base with the walkie talkie's to the dispatcher. I was rattled, there's no question I wasn't rattled. I was sick of everything that there was about the whole situation. And uh, but I maintained the professional stance that I'm required to and responsibility that's put inside of me my charge, I stayed right there with it. When my superintendent arrived on the engines, I told him, I half heartedly appologized for being shaken. I told him I didn't understand why it was effecting me so deeply except the fact that it was kids and the situation was just not right. And it uh, it disturbs me today, it really does. The thoughts of it, with all the information and everything else that's been developed it just heightens my concern about what happened to those kids, why they were there, what was going on. It just does not add up. It doesn't add up to me that they were intoxicated, simply because if they were intoxicated they wouldn't have been uniform. They wouldn't have been laying out there perfectly. Two people that get intoxicated, they don't pass out in uniform position. So it just, that in itself caused me just that more concern. And the answers have to come from somewhere other than the train crew. I know that's a fact, I just know that they were there, we had a situation that was totally unavoidable and without a doubt if willpower could have had anything to do with it. The men on that train would have stopped it but you just cannot physically handled that kind of weight in that distance.

Birdsong: Did ya'll make field notes of what occurred? I mean after the incident.
 Schroyer: I don't know what the crew members did individually. I do know as a crew individually we made seven ott five reports out before we left the company property that morning. Also I know that it's a common practice within railroad employees to jot down notes of anything and everything that occurs while it's fresh on your mind and I did so.

Birdsong: You said a few moments ago that Richard Garrett had a copy of your field notes, is that correct?

Schroyer: Richard Garrett has a copy of everything that I have yes sir.

Birdsong: Okay does he have a copy of the railroad reports also?

Schroyer: He has a copy of that, he has a copy of the, I provided him myself I provided the man, I don't know what else he has, I can tell you what I provided him. I provided him copies of my time slips, I provided copies of my seven or five accident reports, I provided him copies of notes that I had made the morning of the incident. Uh, I provided him copies of a recollection note that I made during the prosecutor's inquest I guess is what it's called. He asked me to make a statement about drugs or alcohol on board the crew. And I guess two or three days after that inquest I came to his office and provided him with an affidavit statement concerning the fact that my crew and I had been on duty for I don't know how many hours now, but approximately ten hours and something from the time we went on until the time of impact. We had gone to Texarkana together, we had not stayed at Texarkana, we had stepped off one train and got a sandwich and stepped on another train and ate the sandwich as we got the train together to leave town, coming back to Little Rock. I do know that at no time during the trip down, during the trip back and we were together on those engines all that time did I see any alcohol consumed, did I see any drugs used, any prescription drugs used or anything of that nature. And he wanted to have that because of the fact that this Dr. Malak had made insinuations that he should be investigating the crew and not him. And I don't think Richard Garrett ever did investigate Mr. Malak. I think the problem with Mr. Malak is that he is so irrogate that he, his office if not himself made some errors or least if they didn't make errors they did not pursue this as deeply as they should have because they didn't realize it was going to turn into (can't understand) it has and then he tried to ship light off of that onto anywhere, it just happened to fall on this railroad crew.

Birdsong: But you did turn all of your reports over to Mr. Garrett?

Schroyer: He's got it all, he's got everything I have access to.

Birdsong: Do you know whether Mr. Tomlin or Mr. Delmar made field notes?

Schroyer: I don't have any idea. I didn't see it, the only thing I can tell you and it's a sticking point in my mind too. And I don't know what's going to come of this whole Grand Jury, but there is one sticking point that

I've got and that is what I have been told that uh, previous testimony came out during the Grand Jury, there was several officer's and things that had said yes they remember the engineer or conductor one or the other at times telling him about the tarp. And times telling them about where this material was, la, di, da, di, da. I've been told now that, here I am having a blank space on the name, Chief Deputy.

Birdsong: For the Sheriff's Office?

Schroyer: For the Saline County Sheriff's Office.

Birdsong: Ray Richmond?

Schroyer: No.

Birdsong: Rick Elmendorf?

Schroyer: No.

Birdsong; That's the only two that I know of.

Schroyer: Mustache, thin.

Birdsong: Chuck Tallent?

Schroyer: Chuch Tallent, there it is. I've been told that Chuck Tallent has stated that no Mr. Tomlin did not tell me anything about a tarp and I know that this is true. I've been told this, I don't know cause I have not asked Chuck Tallent and my opinion of Chuck Tallent on the whole is very positive, I have a very positive picture of the man. But I have been told that he is saying that no Jerry Tomlin never said that to him.

Birdsong: Were you present when Jerry told him?

Schroyer: I was standing, not only was I but Delmar was standing there and Stenant was standing there on one occasion and the Special Agent for the railroad was down there in front of the engine, Mr. Richardson was there, Chuck Tallent was there with his T shirt and a stainless steel pistol stuck in the back of his pants, blue jeans you know back in the back. And I was standing right there, and I never said anything to the man but I remember Chuck asking him about that piece of material and I remember him telling Chuck, the last time I saw it was right back off the bridge abutment, right back there at the scene.

Birdsong: Did you, I talked to Mr. Tomlin and he said he did see it. When he went back to the abutment and saw it.

Schroyer: I never went back sir.

Birdsong: You didn't see it?

Schroyer: No sir I never left the engine except one time during the whole incident and that was to make a frontal inspection of my.

(NOTE: changed side of tape)

Birdsong: This will be the continuation of the interview with Mr. James Schroyer.

Schroyer: The only time I left the locomotive to my knowledge during this incident was when I stepped down, I had asked earlier a deputy to look the front of my engine over to see if there was any body parts or any damage and after some time passed, the realization hit me that an inspection needed to be made by me. So I made an inspection of the frontal part of my locomotive to make sure that I did not have damage on my locomotive or my traction motors or that there was anybody immediately hung up on it. And I returned to the engine to maintain as I said earlier all the communication. You have to have a communication base. On one of these you have to maintain that communication, so that's where I was.

Birdsong: Getting back to the tarp. Would it have been, again going by your experience and not mine. If the tarp was laying there is it a probability as this is occurring that it possibly. Is there turbulence under the, I mean that would possibly blow that thing out?

Schroyer: Absolutely, uh again the word tarp. I don't know if it was a tarp, I really don't.

Birdsong: Whatever green material it was.

Schroyer: I know it was light faded type material but when you are at 50 mile an hour and I assume at impact I was between 45 and 50 because it takes too many seconds for a braking action to pick back up for you to loose speed at that distance. You're not going to have any (can't understand) loss of speed. So we hit them at speed I know that to be true. At speed something on the right of way has one or two actions usually. It's either hit and knocked away or it's sucked up underneath the engines and then thrown out to the right or left violently after the lead engine or whatever has passed over because of the air pressure as you said the turbulence and also the rolling action that the weight against that violence causes. Uh when you hit an object, that's why when we are inspecting trains our primary responsibility is to insure safety to ourselves.

Watching out for things flying out from under the train. And secondary you look the trains over and make sure that the train that you are looking at is right, there is no defects or problems. When you hit something, if it goes off to the right or left I mean it's immediately picks up whatever speed you're running at. I leaves that pilot at about the same speed it hits it. If it doesn't hit it and it runs up underneath that train, I don't know how far back, there's no set distance, it might stay under three, four, five, ten cars. It might come out behind the second locomotive but when it comes out, it's moving, it's moving and I don't understand. I really can't tell you, I just don't understand what occurred.

Birdsong: We were talking a minute ago you know why the two kids ended up under the locomotive rather than you know being bumped out to the side. Could you explain that for me again.

Schroyer: Uh I can explain my opinion why. Uh the pilots on those locomotives and I'm just estimating average about three inches of clearance.

Birdsong: Above the rail?

Schroyer: Above the rail itself. It's designed to scoop up anything that's of any strength or size and throw it off to the right or left away from the locomotive so that the locomotive does not run up on top of it. Possibly get under a wheel and cause a derailment. That's the purpose for a pilot.

Birdsong: Is a pilot about the same as a snow plow type looking thing?

Schroyer: Shovel, snow plow, laymen's term, professional term is pilot. People think of it as a snow plow, it's not really a snow plow.

Birdsong: An old cow catcher thing is what we used to...

Schroyer: Cow catcher. If the boys had of been up on top of the rails physically it would have hit them and it would have thrown them violently one way or the other. Possibly straight down the rail. But as these two boys were laying they were laying flat on the cross ties, their heads up, right up next to the west rail, their feet draped out over the east rail. Their torso's, their bodies were flat down underneath the rail, flat, just as flat and relaxed as.

Birdsong: So they would have been under the...

Schroyer: I would assume if they were not under the level of the rail that they were at least pretty much even with the level of the rail and again

this is an assumption but I assume laying in that position most of the pilot cleared them. If it didn't it was on top of them before and it rolled them. And that's probably what set up the rolling motion of the boys under the engines. Their legs would have been immediately severed at somewhere close to the ankle joint if not just above the ankle joint. And that would have, that's something else that really disturbed me. Well I shouldn't say about that but I've been told that they didn't find one of the feet until later, they had to come back and perform a second inspection. I had alot problems with that, I had alot of problems with the way this thing was handle also. The purpose, to answer your question, and I'm sorry about the elaboration, I believe that they were underneath the rail or even with the rail and the pilot passed over them.

Birdsong: Mr. Schroyer is there anything, and I know you've been talked to two or three times if not more. Is there anything that you can remember now after looking back over everything that maybe you haven't put into a statement that we need to get in now?

Schroyer: Well sir, as odd as it sounds you are the first police investigator during this whole thing that's taken a statement from me. The only other physical statement that I have given was given to Bob Monroe a claim agent with the Missouri Pacific Union Pacific Railroad. I found it kind of odd that no investigator's talked to me. I found it kind of odd that nobody saw fit to interview any of the crew men to my knowledge on this thing. But then again I assume, I don't know the legal workings. I assume they can take those statements for legal whatever the word would be and operate on the statement instead of talking to the individuals themselves. This is the first day of the Grand Jury and other than the time that I was questioned by Richard Garrett under oath no...

Birdsong: When you were questioned before that was at the coroner's inquest?

Schroyer: Coroner's inquest, yes sir. So far as additions I don't have anything that I can really add to my statement. The statements that we gave the morning of that incidents, the statement that we gave Union Pacific were as I said earlier, they were given by four employees with extensive time with the railroad. People that had an awareness of the importance

to include anything and everything that could be included and that was the reason they were given at such detail. Uh, I really do believe that we did everything that we could. There is no question about avoiding the accident, I really do believe that we did everything that we could to facilitate this investigation every way that it could be done. I'm sorry and I truly am that I don't have the answers. I'm sorry that I can't say they were trying to get out of the way. I'm sorry that I can't, as I said earlier I can't say, I'm sorry to raise questions about the tarp. I just know it physically was there, I don't know what occurred to it.

Birdsong: Mr. Schroyer you know all, you know I don't know how anybody else that's talked to you feels, that's not my business how they feel. And my feeling is all I want is the truth.

Schroyer: Well I don't have any defense about what occurred. The only defense that I have is are the defensive thoughts that I have, is the fact that the implications that Dr. Malak put out toward me personally which was very hostile to me, it bothered me. The main thing about a locomotive engineer or a locomotive conductor is his reputation. Public awareness of our job craft is critical. If for any reason, if for any reason you are labeled incompetent, alcoholic, subject to drug use, your operational effectiveness is dead. Just like yourself as a police investigator.

Birdsong: That's true.

Schroyer: And the only thing about this whole nine yards that really is bothering me as far as being defensive is what public concern or interpretation of who I am and who my crew is, how that effects me in my future. You know that's the thing that makes me defensive. But it's not the incident or what happened because I am totally satisfied that we did everything that we could professionally, morally to be responsible with what we did. I really believe that, well I know it, there's no question in my mind what we didn't do what we had to do. Uh I wish I could answer your questions to put this down.

Birdsong: One other point that I want to make is, that I forgot to ask you about. You were talking about the one young boy that didn't have a shirt on. Did you see any movement of his chest, like breathing movement or anything or was time passing too fast for you to notice?

Schroyer: The thing from the time that I recognized it was kids and I saw their

feet and looked up and looked at them laying there in a uniform position. What I riveted on was that boys chest and was the boys head. And he was as relaxed as a boy sunbathing on a beach. There was no movement evident that I could see, throughout all of it until he passed underneath the front of my locomotive. I don't know, I don't perceive that the first boy moved because they were so close together I believe it would have drawn my attention had he moved. I know without an absolute doubt the second boy didn't flinch, no question in my mind. So that's all I can put on that.

Birdsong: Okay this will be the conclusion of the tape. The time is now approximately 10:03 a.m.

CRIMINAL INVESTIGATION DIVISION

ASP-3-A

DATE: 5-3-88
DICTATED BY: INV. BIRDSONG
COPIES TO: BIRDSONG

INTERVIEW OF WITNESS

DANNY J. DE LAMAR
Rt. 4 Box 1084
Little Rock, AR
home phone 888-1338
work phone 373-2269

This will be a taped statement taken at the Saline County Courthouse, will be in the Chancery Judge's Office. Interview will be with Mr. Danny J. DeLamar, Rt. 4 Box 1084, Little Rock, Arkansas. Home phone number is 888-1338, employment Union Pacific, phone number is 373-2269.

Birdsong: Mr. DeLamar I have identified myself to you as a police officer is that correct?

DeLamar: Right.

Birdsong: And you do understand that this is being taped?

DeLamar: Yes.

Birdsong: How long have you been employed with the Union Pacific?

DeLamar: Started out September 25, 1968.

Birdsong: 1968, uh what I would like for you to do.. what is your position now with Union Pacific?

DeLamar: I'm a foreman on the (can't understand)

Birdsong: Okay were you a brakeman on the night of the incident?

DeLamar: Brakeman on the (can't understand) that night.

Birdsong: If you would explain to me in your own words about the incident that occurred on August 23, 1987.

DeLamar: Well we uh, came across what we used to call Bear Crossing, blew the horn at Bear Crossing and we had the brakes set coming down the hill. The engineer Mr. Schroyer had released the brakes and I guess maybe ten or fifteen car lengths from where the boys were the conductor said what's that. We all looked at it and we were right on top of them before we could actually tell it was two men, two young boys laying on the rail. They were covered with a faded tarp or some type of cloth.

67-587-88

Birdsong: How was the tarp positioned on them?
DeLamar: From kind of like the chest down.
Birdsong: On both of them?
DeLamar: Yes they were both covered.
Birdsong: Did you see anything beside them or tell me exactly what their positions were on the track.
DeLamar: Well the one with the darkest head was south, the first one and the light colored hair boy was the second one. They were laying, their heads were facing the west side and then their heads weren't up on the rail they were you know down inside and then their feet were draped over the east side.
Birdsong: But except for their feet their bodies were between the rails?
DeLamar: Yea, that's right.
Birdsong: What kind of clothing were they wearing?
DeLamar: The first boy had something blue on. The second boy I don't know if he had a shirt on or not. Could see some skin.
Birdsong: In the chest area?
DeLamar: In the chest area, I don't know if he had a shirt on or not.
Birdsong: Okay, from the time that ya'll saw them until the time of impact, approximately how long was this?
DeLamar: Just a matter of seconds.
Birdsong: I take it when ya'll use the term big hole that means you put it into emergency?
DeLamar: Right.
Birdsong: What all occurs during that?
DeLamar: Well uh, you can big hole one several different ways, you know if you have a busted air hose or what ever. When you put the lead engine in emergency that locks up every wheel on the whole train, then you actually have to bail the engines off if you don't you'll slide the wheel, they are so heavy that if you get a flat spot on the wheel on the engines big enough it will break the rail if you turn the wheel so you lock the train up and you bail engines off and then you just apply as much pressure as you can on the engine without sliding the wheel.
Birdsong: Okay you sound a horn and everything at that time?
DeLamar: Yes, yes he hit the horn.

Birdsong: Did you see any movement at all?

DeLamar: I didn't see any movement, I sure didn't.

Birdsong: Do you consider yourself pretty well focused on the boys from the time you first saw them or was you doing something else?

DeLamar: Other than when, you know when Jerry said big hole it and when I turned back around you know when I saw what it was and I looked around to see what everybody else was doing. I looked around to see if you know like I say if (can't understand) had big holed it and whatever.

Birdsong: Okay.

DeLamar: I didn't see any movement, I didn't sit right there and stare at the boys you know until we actually hit them. When I saw them I turned around and did.

Birdsong: How were their hands positioned, do you remember?

DeLamar: As far as I know down to their side.

Birdsong: Okay, after the impact what was you required to do or?

DeLamar: Jerry called the dispatcher, I think he told them to send a coroner and police out there that he had two young teenage boys, I believe that's the way he put it. Then we, the engineer stayed on the engine, myself and Jerry and Jimmy Stenant walked the train. I'm not sure about the car number but somewhere in the thirty, thirty five cars back we found the, I believe it was the blonde headed boy, part of him. I stayed with him until the officer's arrived.

Birdsong: In reference to the covering that this, green covering or whatever do you remember hearing Mr. Tomlin say anything after or while you were talking to railroad agents and other people about seeing the covering?

DeLamar: Yes in all our statements we said they were covered with a tarp of some kind. A dull type drop like tarp.

Birdsong: Do you remember Mr. Tomlin saying that he saw the tarp after the impact on the embankment?

DeLamar: Yes he did, he saw it at the, what you call bulk head of the bridge. The boys were just north of a small trussle and he said the tarp was right down there.

Birdsong: Did you ever go to look at the tarp?

DeLamar: No I never went back further than that first boy. I never went back to the actual scene you know where we actually hit them.

Birdsong: Was you in a position or were you around Mr. Tomlin when he may have told either police officer's or other people where he had seen the tarp in the bulk head?

DeLamar: Well like I said I remember his last statement about the bulk head and I don't know if he, after the accident, I know he gave a statement about the tarp but I don't actually know if. I wasn't around him, I wasn't around him if he told the deputy the tarp was at the bulk head. I believe I heard that in his last testimony.

Birdsong: But you wasn't with him when he told him.

DeLamar: I was with him when he gave the statement, the initial statement, I was standing right beside him, talking about they were covered with a tarp. But as far as telling them after the accident where the tarp was you know at the bulk head and stuff, I don't know if I was with him when he told them that. But I do remember him saying it but I think it was at the last inquest.

Birdsong: From the time that you last been talked to about this and I'm sure you've had a lot of time to think about it. Is there anything else that you can think of that maybe hasn't been mentioned before?

DeLamar: Not really, I try not to think about it really, since the accident. But I can't really think of anything about anything.

Birdsong: Did you see a gun during that?

DeLamar: There was a gun

Birdsong: Did you see it before impact?

DeLamar: It was laying just north of them.

Birdsong: Was it flat on the ground or was it leaned up against the rail?

DeLamar: I think it was, the barrel was pointed up toward the head of the boys in that direction.

Birdsong: But it was laying on the ground?

DeLamar: I think it was, it could have been laying up against the rail but I don't think it was. I think it was laying flat.

Birdsong: Okay this will be the conclusion of this interview. The time is now approximately 10:20 a.m.

CRIMINAL INVESTIGATION DIVISION

SEARCHED	AS 5/9/88
INDEXED	_____
LOGGED	_____
PROCESSED	Q7.5-10
QUAL. CON.	MM 5-10
COPIED	_____
FILED	MW 5-13

ASP-3-A

DATE: 5/4/88
 INV. BIRDSONG
 DICTATED BY: 5/9/88
 INV. BIRDSONG
 DATE TYPED:
 COPIES TO:

INVESTIGATOR'S NOTES

On May 25, 1988, this investigator met with Sgt. CHUCK TALLENT of the Saline County Sheriff's Office. At this time Sgt. TALLENT provided this investigator with a copy of the laboratory report from Mr. STEVE COX of the Arkansas State Crime Lab concerning the clothing of the subjects KEVIN IVES and DON HENRY. A copy of this will be forwarded to the Little Rock Office to become a permanent part of this file.

COPY TO:

DEL. BY

DATE

L

FILE NUMBER:

67-587-88

CRIME: Homicide/Questionable Death

CRIMINAL INVESTIGATION DIVISION

TYPED	55-9-88
INDEXED	_____
LOGGED	_____
PROOFED	5-10
QUAL. CON.	MM 5-10
COPIED	BS 5-18
FILED	_____

ASP-3-A

DATE: 5/4/88
 DICTATED BY: INV. BIRDSONG
 DATE TYPED: 5/9/88
 COPIES TO: INV. BIRDSONG

INVESTIGATOR'S NOTES

On May 4, 1988, this investigator contacted Dr. MUHOMAD ELSOHLY of ELSOHLY Laboratory. Incorporated, in Oxford, Mississippi. Dr. ELSOHLY was contacted in reference to his expertise in research of marijuana. I advised Dr. ELSOHLY of the incident concerning the deaths of KEVIN IVES and DON HENRY.

Dr. ELSOHLY advised this investigator that he would be glad to review the case and the lab data, and that I should send all reports of the medical examiner's, the laboratory reports and anything else that would link to the reports concerning the incident of marijuana use. Dr. ELSOHLY also advised he would like for me to check and see if there was still blood samples and urine samples of the victims, so that he could also check these to verify the information.

Dr. ELSOHLY advised that all information should be sent to; ELSOHLY Laboratory Incorporated, 1215 1/2 Jackson Avenue, Oxford, Mississippi, 38655. I made contact with Dr. ELSOHLY at the University of Mississippi, at phone number 601-232-7133.

On the same date, May 4, 1988, this investigator contacted Special Prosecuting Attorney DAN HARMON, and advised him of the information concerning Dr. ELSOHLY.

COPIES TO:
 DET. B. B.
 D. A. H.

L

FILE NUMBER: 67-587-88

CRIME: Homicide/Questionable Death

CRIMINAL INVESTIGATION DIVISION

TYPED	5-5-6-88
INDEXED	
LOGGED	
PROOFED	DIC 5/9
QUAL. CONT.	MM 5-16
COPIED	
FILED	BS 5-18

ASI-3-A

DATE: 5/4/88
 DICTATED BY: INV. BIRDSONG
 DATE TYPED: 5/6/88
 COPIES TO: INV. BIRDSONG

INTERVIEW OF WITNESS

STEVE COX
 Arkansas State Crime Lab
 Little Rock, Arkansas

On April 29, 1988, at approximately 10:15 a.m., LT. DOUG WILLIAMS and this investigator interviewed MR. STEVE COX at the Criminal Investigation Division at the Arkansas State Police in Little Rock, Arkansas. The following will be the information related to this investigator by MR. COX concerning his laboratory report concerning KEVIN IVES and DON HENRY.

MR. COX advised that there was no foreign fiber compressed into the garments into the area of the compressions. According to COX there was nothing over the area of compression; however, there could have been something covering another part of the body. COX stated that if there was something covering the body it is possible it may have been blown off by the turbulence from the train before impact.

COX stated the additional damages that were noted in the report concerned a shirt that had four separate long liner cuts in the back and a torn or cut up the side of the shirt that shows definite separation. MR. COX stated the other shirt had holes in the back.

According to MR. COX, he has not had time to go over the shirts as far as examinations. MR. COX stated that he is planning on examining the shirt for the comparison of marks as to the marks on the bodies.

According to COX it appears that the bodies would have been staggered in some manner due to the areas of impact on the bodies according to the clothing.

MR. COX stated that the caucasian tissue on the wood fragments mentioned in the report was determined by hair attached to the tissues, which was determined to be caucasian. MR. COX stated the fiberboard was not in the compression of the clothing but just attached to the clothing.

L

CRIMINAL INVESTIGATION DIVISION

ASP-3-A

DATE: 5/4/88
DICTATED BY: INV. BIRDSONG
DATE TYPED: 5/9/88
COPIES TO: INV. BIRDSONG

TYPED	2.55-988
INDEXED	
LOGGED	
PROOFED	0825-10
QUAL. CON.	
COPIED	MM 5-10
FILED	MDW 5-13

INVESTIGATOR'S NOTES

On May 3, 1988, this investigator met with Special Prosecuting Attorney DAN HARMON and was introduced to the Grand Jury at the Saline County Courthouse on this date. The Grand Jury has been impaneled in reference to the deaths of KEVIN IVES and DON HENRY.

COPY TO:

DEL. BY

DATE

L

FILE NUMBER: 67-587-88

CRIME: Homicide/Questionable Death

DB: This is a taped interview with Richard Glenn Sampley. White male, DOB: 05/05/63, Rt 4 Number 23 Willow Street, Alexander, Arkansas, phone Number 847-3241. Time is now approximately 4:22 p.m., on Tuesday, June 28, 1988. Interview is being made at the Prosecuting Attorney's Office, Benton, Arkansas. Present will be Sergeant Barney Phillips, of the Arkansas State Police, Special Prosecuting Attorney Dan Harmon, for Saline County, and this Investigator is identified as Investigator Don Birdsong, with the Arkansas State Police. Before making this statement, Mr. Harmon swore Mr. Sampley in putting him under oath for the statement.

DH: Raise your right hand. You solemnly swear the testimony that you are about to give shall be the truth, so help you God?

RS: I, I do.

DB: O.K., Mr. Sampley you do realize that you have been put under oath?

RS: Yes, I do.

DB: You also been read the rights form, which I have already shown to you, and you understand your rights, and you uh, wave your rights at this time, and are willing to make a statement, is that correct?

RS: Inaudible.

DB: Respon d.

RS: Yes, Inaudible.

DB: O.K. F st of all just give me a general, uh, idea of all your dealings, are most of your dealings with a guy named, James Calloway.

RS: I lived with him, 4 different occasions, and I sold, uh, coke for him for a couple

DB: Speak , speak up.

RS: Sold coke for a couple of occasions. Me and Ken Cook both.

DB: Where at?

RS: In Little Rock, just across from Circle K there, was one, and uh, _____ Lambert, was the second time.

DB: When, when you would get the cocain, who would you get it from?

RS: James Calloway.

DB: Where would you get from him at?

RS: At his house. Setting on his table.

DB: In Saline County?

RS: Yes, In Saline County.

DB: And you did this on two occasions?

RS: Yes, I lived with James Calloway at the time. Ken Cook would bring the coke over to the house, on several occasions, he did, and several occasions James went to Ken Cook's house.

DB: Who all was present in the house when you obtained the cocain?

RS: Nobody was there but me and James, setting at the table.

DB: James's wife wasn't there?

RS: She wouldn't be at the table at all.

DH: See if you can get a period of time.

DB: Do you have a period of time on when you did this? What year was it? This year?

RS: It wasn't this year.

BP: Was it before the boys was killed on the tracks, are.

RS: I'm trying to think of when they was killed on the tracks. I read the date in the paper the other day, but I don't remember.

DH: August 23,

RS: It was last year.

DH: of 87.

RS: It was last year when I lived with him, when the cocain was done, cause,

DB: Summer, winter, spring.

RS: It was after, it was in the winter time.

DB: In the winter time, of last year.

RS: It might have been the first of this year. I was, trying to thank in jail. It was the first of this year.

? DB: Was it cold weather?

RS: yea, it was in cold weather, cause thats when the truck hit the house

DB: First of this year?

RS: Uh, huh. Around, I guess the first of this year. I don't know about the time.

DB: Your pretty sure that it was the last of 87, or the first of 88?

RS: Right.

DB: You obtained cocain from Calloway, on two different occasions?

DB: What was the amount of the cocain?

RS: It was a gram, ten(10) eight(8) balls, which I never did get, but uh, it was like half gram, gram at a time. Its total about a gram 3/4, almost 2 grams, and I got 2 1/4 grams, total weight.

DB: He fronted the, cocain to you?

RS: Yea, and I, Yea one time he did. The second time the deal was made in front of Circle K, that when I meet a guy up at Checkmate the dealings went on right there across from Circle K, and the third time the person never did show up.

DH: So you got it from him three times instead od two?

RS: Well two times, I didn't have to give the third time, cause the person didn't never show up. They were suppose to call me, and they never did call me. Which I was gon go get it, and then deliver it.

DB: How much cocain, amount wise, whats the most cocain you e seen Calloway with?

RS: Half ounce.

DB: Half ounce? And who do you think he was getting his cocain from?

RS: He was getting through Ken Cook. Out on West Baseline, cause he would go to Ken Cook's house, like I said, and. He had it the first time, and he had to go get it one time. Thats when he me me at Circle K, cause he said he had to go buy Ken's house first. Which is right out there, that why we meet round, around Circle K, cause Ken lived by Highway 5, West Baseline.

DH: Who were you selling it to? Who did you sell it to?

RS: That guy, I don't reme his name. I wish I did, cause he was setting there when James pulled up to the truck, and uh, he seen James, and he knows James, but I don't remember his name at all.

DH: Was he from Benton?

RS: Yea, inaudible

BP: Could you describe him?

RS: Yea, he's probable about 27, 28. Got brown hair, and he's always kinda got uh, not a full grown beard, but it's like comin out, broken out, and he's real dark complected, and he's got blue eyes.

DB: What kind of car did they have?

RS: He, uh, we was in my car. I don't even know what they was driven.

DB: Did you ever hear Calloway or Cook, or both of them discuss anything about any robberies, that they were involved in?

RS: I heard James Calloway talk about the one up at AP&L, which he has talked about with me. He's tried to get me to do it.

DB: Which one?

RS: With the one on the motorcycle, drive up, put a gun in someone's face, and jump on a motorcycle, and take off, and I told him I wouldn't do it, and Danny Gault, and Anthony Mullin did it.

DB: How do you know they did it?

RS: Cause, James. Danny had talked about it, and uh, James tell, told me everythang, and Anthony was scared, and he uh, James Calloway and Anthony, he had been trying to get that boy to do things, and the the boy was just gutless. And uh, he, he, he gave him every opportunity, and every chance to become a criminal. Cause James is inuadible for him. And Uh, thats one occasion, and then the next occasion, Danny and Mike Gault used to come over to James's house all the time. They always had a gun full, a car full of guns. The robbery that was going to take place out there at the lake, you know, they was trying to get me in on it, and thats when I first told the authorities about James, Danny, and Mike Gault.

DB: What kind of robbery was that?

RS: They was going to hit a dice stand out of Lake Norrel.

DB: Whats the guys name?

RS: C.C. Peach, and he was informed that James Calloway was going to do that, and C.C. Peach called James Calloway , and told him that he would never play another dice game, as long as he lived in the state of Arkansas, and James knew right then and there that I had said something to the law, cause we had had gun play the night before, or that day. That's when Mike and Danny Gault came looking for me. James wanted them to kill me.

DB: Had Calloway pulled any more dice robberies that you know of, or set up any?

RS: He was in one over in Lonoke, but I think he had that one set up. He would never admit to it, but.

DB: Who was running the game?

RS: Some guy, who that lives right down from the car auction. You know where they have the car auction, he lives in a little trailer, and he has this big metal building out there, like a garage, and they had this dice table set up in there. James got robbed of \$2,000.00 dollars, and they all got you know, they was, one guy got hit with a gun, and uh, they had a riffle and shotgun or something. I don't know what it was, but uh, they got robbed over there, and I e inaudible went down there in that little trailer since that happened.

DB: Do you know a black male named Clarence Allen?

RS: Clarence allen. I, I don't recall the name. I know alot a black fellows, through Ken Cook. That are kin to him.

DB: Do you know anything about, Calloway and Cook, setting up another another AP&L robbery?

RS: Yea.

DB: Tell us about that.

RS: Well thats, the way I found out about that, is cause James said he had the perfect time, and I asked him what it was, and he said a robbery on AP&L, and that's when he tried to get me do this on the motorcycle. James knew how much money was in the bag. The bank was so perfect, cause it had hedge bushes around it, and the drop thang was like on the side of the building, where you know, someone could go up and get it, and go. He said it was easy, cause he had two guys, him and Ken, had paid two guys do it before. They dressed identical to each other. One waited over behind the bushes by the thang, one of them set across the road, on a bus stop bench. They was wearing the same thing, and this guy over here waved this guy when a vehicle was comming, and when he come in, he got the money and took off across the street, and they hit _____ City, and s t, and went separate ways. He told me the idea to the fact of what happened, and thats why he said it was a perfect robbery, and thats why he set it up then.

DH: When did he tell you that happened?

RS: Hum, this is after, way after it happened. An old boy that had done it for him, done been to the penitentiary, but him and Ken Cook got their money out of it, and they said that the boy thats in the pen got the talking and bragging, and stuff to his girlfriend. She got mad at him, and turned him over to the authoritys, and he got busted, and the other guy didn't ever get nothing done to him, but Ken and James both set that up, but James can go in there and punch in some numbers, and find out how much money is going to the bank every day. They had a drop in the morning, and a drop in the afternoon, and the one, the reason why the one in the afternoon, was so typical, is cause they had a train come through, right there between AP&L, and the bank periodical during the evening time.

RS: Which they didn't ever know what time exactly it run, but ah, that uh, the bank was closed, on the inside, there was nobody in the bank, except for the clean up crew, and there was one black guy. Go in there and he'd do the floors and stuff, cause there was no activity around the bank, when they made the afternoon drop. That's why he called it the inaudible.

DH: When did he tell you all this?

RS: This is, when he was trying to get me to uh, do the perfect crime.

DH: When did he tell you all this?

RS: When we was all up there with his step-brother, at his house. I went up there several times with him to look at his deal and accross the parking lot at a pet store, and we set there and watched, and every day at about 4: something, 4:40 they were there like clockwork.

DH: Was that in Saline County where ya'll talked about it?

RS: No. Well, where we talked about it yes, but not where it actually happened.

DH: What date was this?

RS: I couldn't tell you a date at all.

DH: Well, approximately.

RS: I would be lying if I sat here and said a date because I don't remember. And I'm scared to death right now. I couldn't even think of one if I knew it, but I talked to an APL guy up there CID in Little Rock and I told him, and he was shaking his head and said there wouldn't be no way you didn't know that unless you was told by someone that was involved, and it was, and I really didn't even know James Calloway when that place was robbed, AP & L, it seemed like it was \$9,000 or something like that.

DH: When did you first meet Calloway?

RS: Probably about 5 years ago.

DB: When did you get in so good with him?

RS: I just come back and bullshit with him and trade cars with him and I got a settlement, workman's comp in 84 and I bought a Fiero and I'd just go up there and stop in there and talk, me and my wife would go up there, and I had this funky lookin shotgun called (inaudible) .12 gauge that I bought when I got my settlement I bought an oozie pistol they were both bought legally. He was just interested in guns and I just stopped by and talked to him, and that's how you know we just became friends, and while I was on workman's comp I didn't work you know, before I even got my settlement and I just go up there and just mess around the car lot. I stayed out there with my grandparents and uh that's when I first met James Calloway in 84 because uh when I broke my hip in 84 I had just broke my hip in 84 I just moved back from Dumas, that's where I got hurt at and I's staying out my grandparents house and I'

trying to talk him into selling me a car because I was on workman's comp and he never would, and my grandpa had to go out and buy me a car.

DH: What's your grandpa's name?

RS: C. M. Dunlap.

DH: Are you telling us about two robberies at AP & L that Calloway told you about or one? One on a motorcycle and one when the guys were just sitting there?

RS: No. The actual robbery that took place they what money they got was split four different ways. The two black boys they dressed identical to each other - one of them is sitting in the penitentiary right now it's on records and files and stuff. And the second one I'm telling you about is the one on motorcycles he tried to get me to do and I set there and went down there and scoped it out and two or three difference occassions and I still would do it, but it was done and was failed, and James called it the perfect crime.

DB: Who did the second one?

RS: Danny Gault and Anthony Mullins and Anthony Mullins, Danny was driving the bike and Anthony was on the back, and Anthony is the actual one that tried to get the money, and the reason it didn't go off is cause he didn't get the money.

DB: Why didn't he get it?

RS: He said he was acting like Buggs Bunny. James was laughing about it, and said one of these days he'll make a good theif. And which I don't think the boy ever wanted to steal anything in his life, and you know, he's just

DB: Where does Mullins live?

RS: He was living over in Villa Capri the last I know of him. Like I said my wife was baby sitting for him and I told her to quit cause he wouldn't never pay her and he wasn't worth a shit and that's why he'd always run back to James and stuff, cause he didn't have no money and didn't have no job.

DB: What do you know about the death of the two boys that were killed on the train track?

RS: I don't know nothing about the actual deaths of them, all I know is that James made a statement that the boys didn't die of a marijuana induced sleep that they had died over drugs and they was killed.

DB: How long after they died did he make that statement?

RS: It's probably a month, month and a half. October, early November.

DB: How many times did he bring up their deaths in conversation?

RS: He didn't hardly ever talk about it. I mean when it come to that that's the only statement he made to me, but you know ever since that time he's been nervous and he's got quite a few phone calls about I never heard conversations come up about the boys, it was just me and him setting there talking.

DB: He never said why he was nervous?

RS: I ain't never known the reason why he was nervous, he ain't never been this nervous as long as I've known him but he's been quite a bit nervous here the past year or so cause I lived with him four different times, and the last three times I lived with him he's become a whole lot nervouser. James Calloway has never raised a voice at me, even the time we had a gun fight he was scared to death because we was both pointing guns and he finally set his gun down and "inaudible" before the law got there. When my truck slid down into his house he went off on me and he said you can't have the truck, I was buying the truck from him, and he said you need to find another place to stay, he said I'm through with you Rick, don't ever ask me for another favor as long as you live, which he just blowed up because he was nervous and he was in that nervous state of mind.

DB: Do you know if he knew the boys?

RS: I don't know. Like I said, they might have come over to the house. I wouldn't I didn't know the boys personally. I don't know if he did. Rachel might have, Debbie's daughter, she goes to Bryant school.

DH: What about Farah?

RS: That's James' daughter, which aint his real daughter but her daddy's like, he's dead or something, I don't know.

DB: How old is she?

RS: She's 15 or 17. She dont' go to school or nothing. She dropped out of school. She lives with uh the ladies house I showed ya'll going over to the other ladies house. I can't think of her name, uh Sheila Calloway's her name.

DB: You're telling us that you didn't have anything to do with the robbery of AP & L?

RS: No I didn't

DB: You didn't have anything to do with the death of these two boys?

RS: No I didn't. I knew about the motorcycle robbery but I didn't have nothing to do with it.

DB: You didn't watch the lady leave baseline liquor store anytime and be out her house one night when she came home?

RS: No I didnt

DB: Attempted to rob her and she inaubible

RS: I was there at James Calloway's house when he come in a stationwagon and parked in the yard, and I was sitting there in the living room, James had come in and Danny just left, he drove a little Dodge Omni, and Danny Allen a police officer shined a police light down in the yard, and pointed it right on that stationwagon, and went on, and James said he had to get rid of the car the next day, and he told me why, which I didn't know nothing about it,

DB: This was at Calloway's house?

RS: This was at his house.

DB: You were in the house?

RS: I was in the house. I was I think I was sick

DB: How many people were there?

RS: I think everybody was there. Debbie was in the room, and I was on the couch and all and all the kids was in this part of the house, they sleep on this end and they slept on that end and I slept in the living room. And the lights come up on the stationwagon was what woke me up cause when James car when you the whole living room lights up because of the bay windows and stuff. James come in and went to bed, and I just layed back down like nothing happened and then the spot lights and stuff, and I asked James what happened and he got up and said nothing, nothing like that, and the next day he got up and said he had to get rid of the stationwagon and then he told me why.

DB: What all did he say?

RS: Cause of what happened. Uh they had followed somebody from a liquor store and was going to get the money, and they didn't get the money and she seend she seen the car.

DB: Who all was involved?

RS: James and Danny's all I know. I dont know if there was a third person or not but the newspaper said it was only two people.

DH: You didn't have anything to do with it?

RS: I did not. I didnt even know it was going to happen.

DB: And you dont know anything about a burglary off Hwy 5 where a bunch of cigarettes and meats were taken and taken to Calloway?

RS: I knew James was selling cigarettes for \$5 a carton, but I didnt know where they come from. and I bought a couple a cartons off of him but I never did see a whole bunch of nothing.

DH: When was it Calloway was selling cigarettes?

RS: It was probably around that time. Around October or November. It was before I bought that Ford truck off of him along before I left his house when he kicked me out.

DH: When was it yall pulled guns on each other?

RS: He said two or three years ago, I don't remember it being that long but it was uh

DH: Could it have been October or September of last year or September,

RS: It would have been longer than that. Uh Steve Gunner was there. We was over at a girls house over by Scott Hamilton Drive and I called James to see if my income tax check had come in, and he said yea it's here, and I said I'm coming to get it, and he said well you're not going to get it, and I said well I'll get it if I have to whoop your ass and he said well come on big boy and I did, and I went down at his house first and he wasnt' there and I walked in and I got both his guns and went up there and pointed his own gun at him.

DH: Where at?

RS: Up at his car lot. A guy named Terry that repossesses cars for James was there and uh Charles McClain was there, James was there me, Steve Gunner, and Charles Hensen, and Charles Hensen is the one that had me arrested and that's the day that , and Danny and Mike Gault was there, they sure was, or they pulled out right after it happend or something cause they

DH: At the car lot?

RS: Yea

DH: Police officers ever show up?

RS: Yea they took me in for disorderly conduct and that's the night they were supposed to go out to Lake Norrel and rob C C Peach and James come to tell me after that that uh you know that them boys were going to kill you, they was going to kill you that night if you went out there with them? They were going to leave you for dead and I said they scared me right there and he said they're after you right now cause they know that you're the one that told the law that he was going to get robbed and you messed them out of that money and that's why I started running, they was getting on my case they's getting on my tail when I was living over on Kanis Road they was getting close. I even got shot at one time.

67-587-88 RB: Over on Kanis Road.
DB

DH: When?

RS: Last year.

DH: Did you find out who did it or did you report it to the

RS: I reported it to the law authorities in Little Rock, and I thought I talked to someone here in Saline County and I told them I was going to buy a gun, and I bought a gun off James Calloway, the same one he had pointed at me that night. .38 that he bought I said here I give you fifty dollars for it and uh James knew where I was staying on Kanis Road?

DH: Do you know anything about plans to rob Western Meat Packing Company?

RS: I know about that. Mike Gault worked there at the meat packing company and James was wantin me, him and Danny to go in and it was going to be an inside job they said something about the money coming in early in the morning through a lady or an old man and they was trying to set it up , and they ended up firing Mike Gault or something cause had suspicions of it.

DH: Did Calloway say what happed to that plan?

RS: No he never did say nothing about that. All's I know is that Mike got fired

DH: When was it?

RS: It was back when I was living with him I couldn't tell you

DH: You've lived with him four different times.

RS: I know it. I can't remember whether it was last time or the time before.

DH: Did you go out and look over the Western Meat Packing?

RS: No I don't even know where it's at, I just know it's over off Asher somewhere, that's what I think, that's what they were telling me, but Mike worked there. He was a security guard or something, I don't know what he done, and it was supposed to be that kind of a job, and they said it wouldnt be nothing.

DH: Which one of the Gault boys is in the penitentiary?

RS: Mike.

DH: Alright, where was the plans to rob Western Meat Packing made?

RS: James Calloways house and down on Arch Street. Both places are in Saline County.

DH: and do you know if Danny and Mike went out lookin at the place?

RS: Mike worked there. Im sure Danny looked it over several times.

DH: Who was supposed to go rob it?

RS: Me, James and Danny, I think Mike was supposed to, he couldn't rob it cause he didn't want them to know that he had anything to do with it.

DH: Do you remember when this was?

RS: I sure don't. It wasn't long after that Mike Gault was fired from Western Packing so it was right before that maybe a couple of months.

DH: Were they going to borrow a car from Calloway, was that part of it?

RS: That's how the deal worked at the car lot. He had plenty of transportation he could get it and he could get rid of it, but that's how I first met Mike and Danny Gault was down on Arch Street. When I walked in the house there was guns all over the place and hands reaching everybody in the house, and they was out there doing coke and smoking coke and everything else. Danny's a bad one on coke I didnt think Mike was capable of murder but he did kill a guv and I was lucky it wudn't me.

DH: Is Danny the bad one?

RS: Danny's pretty bad one, he sat there a toldme about killing a lady over at uh Circle K or whatever store it is that they got Scottie Scott on for right now and James and me and Danny sat down and talked about that Danny had a room rented at the motel next to it and that Scottie Scott had squealed out of there and Danny walked over there and robbed her and shot the lady and Danny said that out of his own mouth, and I'll put that in a statement already.

DH: You've told the police that already?

RS: I told them I needed to talk to Scottie Scott's attorney and James told me they had questioned Danny on it. Danny used to work at AP & L and they fired him because they thought he was in on some wrong doings down there, but Danny Gault sat there and told me he killed that lady at that store. Which he was coked out and drunk and he was just dumb anyway, and James told me you know he's crazy, he done it.

DH: He say how they killed her?

RS: Shot her.

DH: What did he do with the gun?

67-587-48
DB

RS: Didn't ever say nothing about that.

DH: Do you know how much money he got?

RS: \$60, \$70, \$80 dollars at the most I think it was. It wasn't enough. But Danny wasn't in the room, and James had told me that he had stayed in a motel next to there the night that that lady was murdered and there wasnt no reason for him to be over in that part of town?

DH: Did he go to the pen right after that too, on some more charges?

RS: I think he did. I told Scottie Scott that up at BJ's and he said they had questioned Danny Gault, cause I worked at BJ's. I scared to death of the Gault boys. I'm scared of James Calloway because he's in with the Gault boys

DB: This will conclude the tape. The time is now 4:45

CRIMINAL INVESTIGATION DIVISION

ASP-3-A

DATE: 5-9-88
DICTATED BY: SGT. BARNEY PHILLIPS
DATE TYPED: 5-12-88
COPIES TO: PHILLIPS

TYPED	JR 5-12-88
INDEXED	
LOGGED	
PROOFED	3/17/88 DW
QUAL. CON.	MM 5-23
COPIED	
FILED	MW 5/25

INTERVIEW OF POLICE OFFICER

DET. SAM GIPSON
C/O of the Benton Police Department
Benton, Arkansas

Det. GIPSON, who works for the Benton Police Department was interviewed by this investigator on 5-6-88, at 9:00 a.m., and he related to this investigator that the night before around 9:50 p.m., he received a phone call at home from an unidentified black female who said that she knew Det. GIPSON, but would not give her name. He states that this woman said that the night DON HENRY and KEVIN IVES were ran over by the train, that she was in the Blue Note Club in Alexander, when they came in and bought some marijuana that had been laced with Formaldehyde. She stated to Det. GIPSON that she goes to this club in Alexander quite often and that they are always selling marijuana there that has been laced with Formaldehyde.

COPY TO: DELBY R-FIE

L

FILE NUMBER: 67-587-88

CR. ME: Homicide

CRIMINAL INVESTIGATION DIVISION

ASP-3-A

DATE: 5-9-88
DICTATED BY: INV. BIRDSONG
DATE TYPED: 5-11-88
COPIES TO: INV. BIRDSONG

TYPED	BO
INDEXED	
LOGGED	
PROOFED	3/17/88 [initials]
QUAL. CON.	
COPIED	MM 5-18
FILED	

INVESTIGATOR'S NOTES

At approximately 9:45 a.m. on 5-6-88, this investigator met with Saline County Grand Jury in Alexander, AR in reference to taking the Grand Jury to the area where the incident where DON HENRY and LARRY IVES died took place.

The following individuals from Union Pacific Railroad were also present.

1. BOB MONROE.
2. GARY COTNER.
3. DAVID DWERLKOTTE.
4. BILL DONNER.

COPY TO: [lines]
REL. BY: [lines]
DATE: [lines]

This investigator led the Grand Jury to the area where the incident took place pointing out information to the Grand Jury and answering questions for them.

As we were walking the tracks back into Alexander, we located on the right side of the tracks as we were walking back, a piece of green material. It was approximately fifteen feet to the right of the tracks located on the ground. This appears to have the same color consistency as described by the train crew concerning a material that was laying over the boys the night of the incident. The area was adjacent to a large electrical box and this investigator confiscated the material, placed it in a paper bag for analysis at a later date.

L

FILE NUMBER: 67-587-88

CRIME: Homicide/Questionable Death

CRIMINAL INVESTIGATION DIVISION

TYPED	BD
INDEXED	
LOGGED	
PROOFED	3/17/88 DW
QUAL. CON.	
COPIED	MM 5-18
FILED	

ASP-3-A

DATE: 5-9-88
 DICTATED BY: INV. BIRDSONG
 DATE TYPED: 5-11-88
 COPIES TO: INV. BIRDSONG

INVESTIGATOR'S NOTES

On 5-6-88 at approximately 1:50 a.m., this investigator met with Sergeant BARNEY PHILLIPS, Mr. BOB MONROE of Union Pacific, and DAVID DWERLKOTTE of Union Pacific.

Sergeant PHILLIPS, DAVID DWERLKOTTE and myself boarded Union Pacific Engine number UP3371 and met with the engineers, AL WILLIAMS and W. B. BULLOCKS. At approximately 2:10 a.m., we left the Benton Depot headed toward Little Rock. At approximately 2:35 a.m., as we came up on the Shobe Road intersection, I started video filming from the cockpit of the engine. The engine was travelling approximately 50 miles per hour as I started filming. We went through the area where the incident occurred and at approximately 2:38 a.m. I stopped the filming of the tape.

The train stopped in Mabelvale, AR where we made contact with BOB MONROE who transported us back to Benton to our units.

Both the video tapes made by this investigator and the tapes made by Inv. SWESEY and Inv. YORK who had placed their cameras in the middle of the track area where the incident took place will be made a part of this investigative file.

COPIES TO
 DEL. BY
 D.A.P.

L

FILE NUMBER: 67-587-88

CRIME: Homicide/Questionable Death

CRIMINAL INVESTIGATION DIVISION

ASP-3-A

DATE: 5-9-88
DICTATED BY: INV. BIRDSONG
DATE TYPED: 5-11-88
COPIES TO: INV. BIRDSONG

TYPED	BD
INDEXED	
LOGGED	
PROOFED	5/17/88 DW
QUAL. CON.	
COPIED	MM 5-18
FILED	

INVESTIGATOR'S NOTES

On 5-5-88, this investigator met with Sergeant BARNEY PHILLIPS in Benton, AR in reference to preparing to meet with Union Pacific authorities to recreate crime scene concerning this case.

On the same date, this investigator met with Investigator RANDY YORK concerning the crime scene and requested that he make arrangements to try to tape the train coming into the area of the crime scene. These arrangements were confirmed and we were to meet with Union Pacific authorities at 2:00 a.m. on 5-6-88.

COPY TO:

DEL. BY

DATE

L

FILE NUMBER: 67-587-88

CRIME: Homicide/Questionable Death

CRIMINAL INVESTIGATION DIVISION

TYPED	Machelle 5/20
INDEXED	
LOGGED	
PROOFED	QR 5-00
QUAL. CON.	
COPIED	MM 5-20
FILED	MW 5-25

ASP-3-A

DATE: 5/20/88
 DICTATED BY: INV. RANDY YORK
 DATE TYPED: 5/20/88
 COPIES TO: INV. RANDY YORK
 INV. BIRDSONG

INVESTIGATOR'S NOTES

This investigator on 5/6/88, accompanied by INV. DALE SWESEY went to the location in Bryant, Arkansas where this incident took place reference this case. The purpose was to set up a video camera to film the train approaching the location where the two victims were ran over.

This investigator and INV. SWESEY arrived at the location which was pointed out to this investigator during the previous week by INV. BARNEY PHILLIPS. This investigator set up a mini-camera on the ground supported by sand bags to focus and shoot down the direction which the train was coming. The camera was placed at approximately two feet off the side of the tracks, which was between the two tracks facing the direction which the train was to come toward it in a westbound direction. Shortly after having the camera set, we were notified by INV. BIRDSONG that they had left the Benton Depot and were on their way to our location. He advised that there would be a horn from the train at the intersection which was a good distance east of our location. This investigator along with INV. SWESEY waited until we thought we had heard the train and activated the camera to clear the area we positioned ourselves, approximately fifteen to eighteen feet off the side of the track and approximately twenty feet back east of where the camera was set up. This investigator and INV. SWESEY were sitting there waiting for the train and observed the interstate traffic and the noises made by this traffic of the automobiles and tractor trailer rigs on the concrete interstate slabs. We both made comments at that time of the interstate traffic sounding similar to what we thought the train would sound like from a distance.

We then became aware of the train's horn in a far distance by being able to hear the horn in a muffled type condition. At this time, we began trying to listen for the train and could not distinguish between the train and interstate traffic. It was not until approximately 100 yards before the train approached the side of us that it was distinguishable

FILE NUMBER: 67-587-88

CRIME:

2-6-88

between the train and the interstate traffic. The sound which came from train where we were positioned in front just off the side of the track was not distinguishable since it was just a constant tone as if it was interstate traffic.

Again it was not until approximately 100 yards to where the sound of the train produced enough volume to where we noticed it was the train creating that sound. The light was visible for a lengthy time down the tracks but it was undistinguishable between myself and INV. SWESEY to exactly which track the train was on looking down at the tracks at this time at night.

It was noted by us that it was only a matter of few seconds between the time that the train's noise was distinguishable and the time that the train had passed where we were. At the time the train did pass us, the noise created by the train coming off from the side of the train was to the extent that we could bearly hear each other by hollering at each other from a matter of five to six feet in distance.

After the lengthy train had passed, this investigator deactivated the camera and kept possession of the tape until which time it was turned over to INV. BIRDSONG. After returning to the office that morning, the tape was viewed by this investigator and this investigator feels that due to the night conditions, the tape was produced is not of a quality to provide accurate data pertaining to the actual distance between when the light or train was visible by the camera as well as the sound that was picked up by the microphone on the camera.

CRIMINAL INVESTIGATION DIVISION

TYPED	DB 5-26
INDEXED	
LOGGED	
PROCFED	DB 5-26
QUAL. CON.	
COPIED	DB 5-26
FILED	MW 9/2

ASP-3-A

DATE:
DICTATED BY:
DATE TYPED: MAY 26, 1988
COPIES TO:

This will be a taped interview of Doctor JOE BURTON at the Dekalb County Medical Examiner's Office, the time is now approximately 3:26 p.m., on May 26, 1988.

DR. BURTON: Hey this is Dr. BURTON.

BIRDSONG: Dr. BURTON?

DR. BURTON: Yeah.

BIRDSONG: This is Investigator DON BIRDSONG with the Arkansas State Police

DR. BURTON: Yes.

BIRDSONG: What I needed to do was to talk to you in reference your findings concerning the death of these two boys and they got you out of there the other day before I had a chance to interview you. Would it be okay if I talked to you and taped it?

DR. BURTON: Well, not right now, because I've got to be in court in 20 minutes, (laughter) I've been on call all day long for homicide, they're going to use me at 3:00, and then they were going to use me at 4:00 and then 4:30 and now it's 5:00, and I'm about thirty minutes away from court.

BIRDSONG: When would be convenient for you, because before I can do anything I need to know some findings.

DR. BURTON: Well, that's what I told the Grand Jury, but let me tell you what the Grand Jury told me when we left. They told me that until they had time to review my report and everything that the gag order was on me to everybody including the police and everybody, which makes no real sense, because I told them that I thought if they were going to investigate this case they needed to have access to everything that is in it.

Um, I would be happy to give you a report, I'll be happy to

talk with you at length.

BIRDSONG: Did you give them, was there a written report that they received?

DR. BURTON: Yes, I left about a 30 page report with them.

BIRDSONG: They didn't give us that either.

DR. BURTON: Um, they didn't have time to read it all during the day I was there, but they were going to read it all and to my understanding

BIRDSONG: See they came out with the findings of probable homicide yesterday and then told us to do an investigation as soon as possible, but we don't have any information to do the investigation with.

DR. BURTON: Well I think you ought to have my report.

BIRDSONG: That's what we were wanting to do and since we couldn't get it...

DR. BURTON: Why don't I call RICHARD GARRETT in the morning telling ...

BIRDSONG: I hope you have better luck with Mr. GARRETT than I did.

DR. BURTON: (Laughing) Well ...

BIRDSONG: We won't go into that either.

DR. BURTON: I told the Grand Jury I thought I could understand the situation everybody got themselves in now, but if there is anything to these boys' death unless people cooperate with each other nobody is going to find out anything.

BIRDSONG: That's right, people being from our stand point, you know, it's hard to investigate something you don't really have knowledge of.

DR. BURTON: Well, I know you got your Medical Examiner's opinion to go on and he may be totally right. I have some considerable question about their death, but I don't have anything concrete to really go on or anything like that. But I told the Grand Jury and I told Mr. GARRETT and DANNY HARMON, is that his name?

BIRDSONG: Yes, sir.

DR. BURTON: That I thought that after they had a chance to look at those reports, that if they wanted anybody to do anything about the case, they ought to give them the reports and if they have questions about it to let me talk to them about it.

BIRDSONG: I tell you what, if you would will contact them and then I will try to contact you either tomorrow or Monday or make it Tuesday.

DR. BURTON: Make it Tuesday, right. (laugh)

BIRDSONG: Thanks alot, Doctor.

DR. BURTON: Okay.

BIRDSONG: Thanks alot.

COPY TO:

DEL.BY

DATE

CRIMINAL INVESTIGATION DIVISION

ASP-3-A

DATE: 5-27-88
DICTATED BY: INV. BIRDSONG
DATE TYPED: 5-31-88
COPIES TO: BIRDSONG

INVESTIGATOR'S NOTES

TYPED	RS:31-88
INDEXED	
LOGGED	
PROOFED	6/1/88 pw
QUAL CON	
CODED	mle-2
FILED	mwl-6

At approximately 10:30 a.m., on 5-27-88, this investigator received a phone call from Mr. TOM MONTGOMERY of Alexander, Arkansas. Mr. MONTGOMERY used to be the City Marshal in Alexander and was known to this investigator. Mr. MONTGOMERY advised that in attempting to obtain information for me concerning the deaths of the IVES and HENRY boys, that he was able to develop information that these two boys were supposedly in the "Blue Note", which is a local hang-out in Alexander. The subject who runs the "Blue Note" is identified as DOYLE TYSON, a black male who was originally from Little Rock.

Sgt. PHILLIPS had received information earlier that the two boys had been in the "Blue Note" and had purchased marijuana that an anonymous source had said was laced with Formaldehyde.

COPY TO:
 DEB. BY
 DATE

L

FILE NUMBER: 67-587-88

CRIME: Homicide/Questionable Death