

February 9, 1988 . . .

## Teen-agers' parents conducting death probe

### Youths died on Union Pacific tracks

GAZETTE STAFF AND AP

The parents of two Saline County teen-agers killed August 23 by a Union Pacific Railroad train are conducting their own investigation into the deaths.

They are not satisfied with the official explanation: That their sons, unconscious from marijuana use, were killed accidentally while sleeping on the tracks.

The couples — Larry and Linda Ives of Benton and Curtis and Marvella Henry of Bryant — are to meet this morning with state Crime Laboratory officials to obtain autopsy evidence for an independent analysis.

Dr. Fahmy Malak, the state medical examiner, said September 4 that the boys were killed about 4:25 a.m. as they lay "unconscious and in deep sleep" under the influence of marijuana on tracks between the Shobe Road and Alexander Road crossings on the eastern edge of Saline County.

Killed were Larry Kevin Ives, 17, of Benton and Don George Henry, 16, of Bryant. They last were seen by their parents when they left home to go hunting a few hours earlier.

#### Agree to releases

Their parents called the news media Monday to complain about difficulties they said they had met obtaining evidence from the Crime Lab. But, at day's end, Curtis Henry said Lab officials had agreed to release today lung tissue that the Lab originally had said it didn't have, samples of body fluids

and the Lab's investigative "paperwork."

Henry said both couples had hired attorneys to obtain orders from Circuit Judge John Cole of Benton, beginning in September, for the Lab to release all samples of tissues, fluids, slides and paperwork.

#### Report from Memphis lab

Henry said the samples that were obtained under the first court order had been sent to labs at Memphis and Pittsburgh, but so far all the parents have received is a report from the Memphis lab confirming Dr. Malak's investigation.

But Henry said he and Ives had talked to a number of drug experts around the country and "I've got 50 telling me no way" that the boys could have been unconscious from smoking marijuana.

Mrs. Ives, who said the parents might ask for a Grand Jury investigation, said the official reports indicate the boys had to have smoked as many as 20 marijuana cigarettes before the train hit them.

#### Findings supported

Howard Chandler, director of the Crime Lab, said Monday that the Lab stood behind its earlier findings in the boys' deaths. Dr. Malak was testifying in court Monday and could not be reached for comment.

Henry also faulted authorities for never investigating the deaths as homicides.

"We're not satisfied with the way the authorities conducted the investigation," Henry said. "No one knew what happened \*\*\*; there was too much speculation. If everything proves the ruling is correct, we'll accept it, but if not, we want it overturned."

Railroad personnel also said the boys were partially covered by what appeared to be a green tarpaulin. Authorities say they never saw the tarpaulin and contend the train crew experienced an optical illusion. One of the parents said someone at the scene had observed a tarpaulin some distance from the tracks a few hours after the accident. It was not collected as evidence.

#### 'Case is not closed'

Saline County Sheriff James Steed said Monday night, "The case is not closed. We've got it on inactive status. We could reopen it any time we thought there was any evidence to sustain reopening it."



LARRY KEVIN IVES

Right now these people have had a terrible personal tragedy, but we did what I feel is a good investigation and until something comes up different I'm going to have to stick with Dr. Malak's ruling. I always felt Dr. Malak is more than competent in his field. He's good at what he does."

All accounts say the boys were lying side by side on their backs with their heads between the rails and their legs positioned over the south rail of the tracks. The engineer and crewmen told investigators the boys did not move as the train approached at about 50 miles an hour with horns and bells sounding.



## Fathers get state evidence in 2 deaths

Sons killed by train

By James Scudder  
GAZETTE STAFF

Two fathers spent an hour Tuesday with the state medical examiner seeking evidence from an investigation of their sons' deaths.

A spokesman for the medical examiner's office said later that Ray Love, a private investigator working for the fathers, had picked up the requested material about 4 p.m.

The fathers, Larry Ives of Benton and Curtis Henry of Bryant, are not satisfied with Dr. Fahmy Malak's conclusion that their sons, Larry Kevin Ives, 17, and Don George Henry, 16, were in a deep, marijuana-induced sleep when they lay side by side on a Union Pacific Railroad track and were

(See DEATHS on Page 15A.)



Parents Curtis Henry (left) and Larry Ives discuss case with Medical Examiner Fahmy Malak (right).

—Staff Photo by Steve Keesee



# Deaths

Continued from Page 1A.

struck and killed by a train about 4:25 a.m. August 23.

The accident occurred between the Shobe Road and Alexander Road crossings on the eastern edge of Pulaski County.

Dr. Malak spent much of the time Tuesday trying to convince the fathers there was no likelihood a new investigation would indicate another cause of death, but he urged the fathers three times during the conversation to satisfy their own doubts and have the bodies of their sons exhumed for another autopsy by a pathologist of their choosing.

"If it were my son, I would exhume the body and hire the best medical examiner in America," Dr. Malak said. "\*\*\*\* I am a father, too. My son is a teen-ager. I have two kids. \*\*\* But this is the bottom line. Those two children died because they were hit by a train."

Henry told Dr. Malak "that's a decision we will make later," if the families of the two boys aren't satisfied by the results of tests on pathology samples and data Dr. Malak turned over to the fathers Tuesday.

Items requested of and provided by Dr. Malak were 21 X-rays of various parts of the boys' bodies, organ tissue samples and an explanation of the procedure used by a

toxicologist in concluding both boys had used marijuana before their deaths.

"We're just wanting a second opinion," Larry Ives told Dr. Malak. "We're trying to satisfy ourselves." Ives later told a reporter, "Their reputations have been tarnished by one man's opinion."

Also Tuesday, Linda Ives, mother of Larry Kevin Ives, said a statement in Tuesday's *Arkansas Gazette* wasn't entirely correct. In the article, Curtis Henry is quoted as saying a Memphis laboratory had confirmed Dr. Malak's findings.

But Linda Ives said Dr. J. T. Francisco, the Memphis pathologist to whom blood, urine and tissue samples from the boys were sent, had confirmed only the presence of marijuana in urine samples. She said Dr. Francisco later told her he couldn't quantify the amount of marijuana and that he performed no tests on the blood samples.

Earlier, the families had obtained two court orders and Dr. Malak had released fresh blood, urine and tissue samples. He told the fathers Tuesday that the organ tissues that remained had been preserved in formaldehyde and would be useless in toxicology tests.

Railroad personnel also had said the boys were partially covered by what appeared to be a green tarpaulin, but authorities say they never saw the tarpaulin and con-



**DON GEORGE HENRY**

tend the train crew experienced an optical illusion.

Saline County Sheriff James Steed said Tuesday that deputies searched the area thoroughly after a train crew member told them he had seen the tarpaulin, but nothing was found.

Larry Ives said Tuesday that he and about 10 other men went to the accident scene and searched the area for a half day but found nothing.



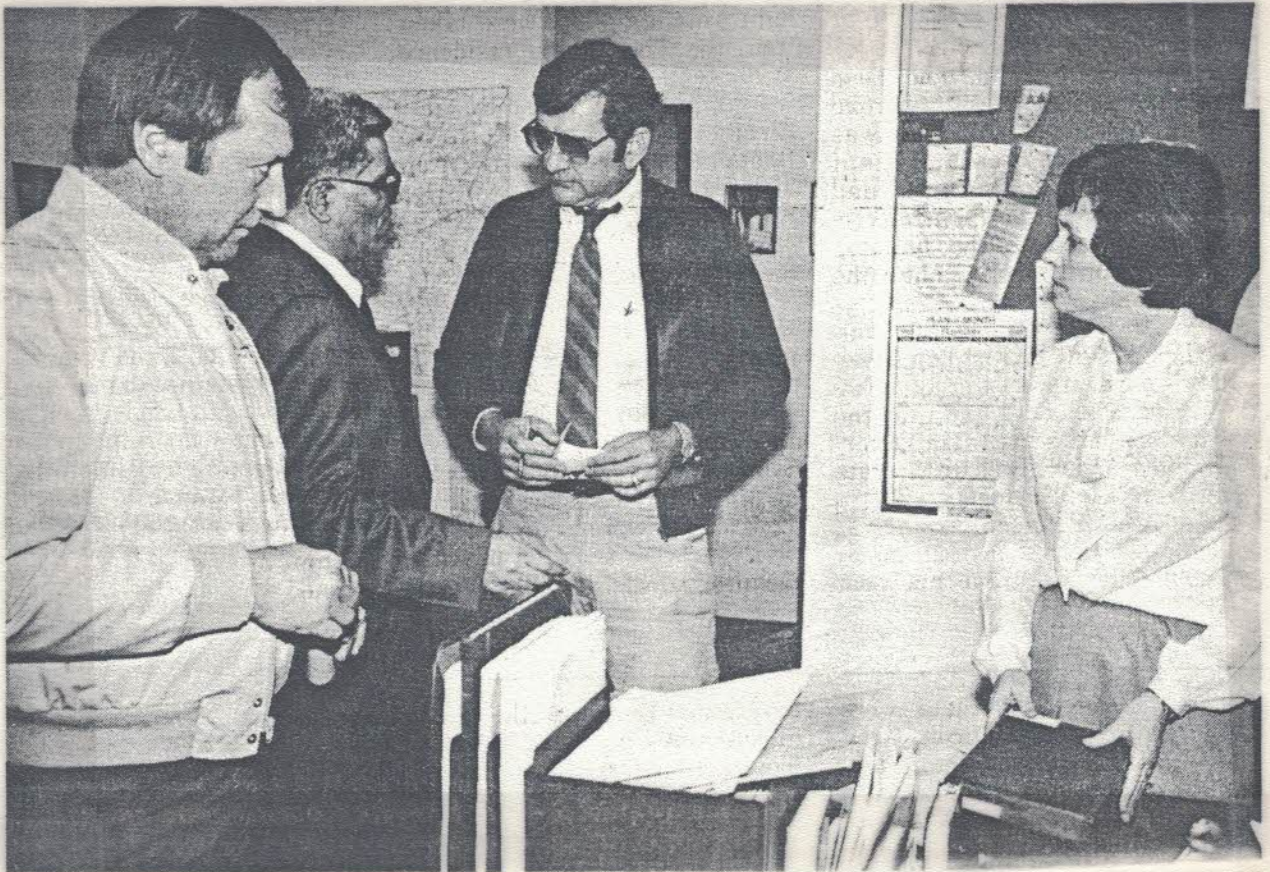
# The Benton Courier

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## Drug expert disputes findings

By LYNDA HOLLENBECK  
Courier Staff Writer

A toxicologist in another state believes Dr. Fahmy Malak was in error when he said two Bryant teen-agers lost consciousness because they had smoked marijuana before being run over by a train Aug. 23.

In the autopsy reports of Kevin Ives, 17, and Don Henry, 16, the Arkansas medical examiner concluded both boys were "unconscious and in deep sleep on the railroad tracks, under the psychedelic effects of marijuana," as they lay across the Arkansas 111 crossing west of Alexander.

Dr. Arthur J. McBay, chief toxicologist for the North Carolina medical examiner's office and former medical examiner for Massachusetts, talked with a *Benton Courier* reporter today and criticized some of Malak's conclusions.

McBay, who has been involved in marijuana studies for more than 30 years, is professor of pathology and pharmacology at the University of North Carolina and has worked with medical examiners since 1955. When the parents of the two boys began questioning Malak's findings concerning the role marijuana played in the deaths of their sons, they learned that McBay is considered one of the country's foremost experts in the study of this substance.

According to McBay, smoking marijuana — even a lot of it — will not render a person unconscious.

"I've known of incidents where persons smoked 21 marijuana cigarettes, one right after the other," he said. "They would become euphoric, but it doesn't make them unconscious."

"I don't know what kind of evidence you could use to possibly conclude this," McBay said. "I have never heard of anyone becoming unconscious from this under ordinary circumstances."

The toxicologist says it is possible to smoke marijuana cigarettes "or any kind of cigarettes" so fast that a person could hyperventilate. But even by doing this, the person would experience only a momentary loss of consciousness, he said.



# Toxicologist disputes Malak's drug finding in deaths of two teens

BY MAX PARKER  
Democrat State Desk

The chief toxicologist for the North Carolina medical examiner's office Tuesday disputed the marijuana readings contained in the autopsy reports of two boys killed last summer.

Larry Kevin Ives, 17, of Benton and Don George Henry, 16, of Bryant were killed about 4:25 a.m. Aug. 23, 1987, by a Union Pacific train. The two teens were lying across railroad tracks near the Arkansas 111 crossing west of Alexander.

Dr. Fahmy Malak, state medical examiner, had ruled the deaths accidental. In Aug. 24, 1987, autopsy reports, Malak said the two were "unconscious and in deep sleep on railroad tracks under the sedative influence" of marijuana when a train passed over and killed them.

"Marijuana is not a drug like that," said Dr. Arthur J. McBay, who is also a professor of pathology and pharmacology at the University of North Carolina at Chapel Hill. "It doesn't force an unconscious state. It's not even a drug normally connected with hallucinogens."

McBay, who has been involved in extensive research on marijuana use, said he doubted if Malak had the experience or expertise to make such a finding.

"On what basis was that finding made?" he asked. "It's very bizarre. I don't know who would agree with it. In this case, I don't believe it. Marijuana doesn't even make people take risks."

McBay said he had done experiments where blood was drawn every minute from a person smoking marijuana.

"Those persons reached their peak in five minutes and after that it went back down," he said. "It just won't make you unconscious and go into a deep sleep."

After being told of the concentrations of tetrahydrocannabinol, the active ingredient in marijuana, listed on the teens' autopsy reports, McBay said no method was that accurate.

"I think the burden should be on the state or the individual who made that conclusion," McBay said during a telephone interview Tuesday. "When I see this kind of result, it's usually someone who doesn't know a damn thing about marijuana or the testing."

The parents of the boys, unhappy with Malak's ruling, Monday called for a grand jury investigation into the deaths.

They believe that law enforcement authorities may have missed critical evidence in their investigation.

Curtis Henry, father of Don Henry, said Tuesday the parents planned to forward to McBay notes and copies of working papers used to compute the marijuana level.

About two weeks ago, Henry said, the parents sent tissue samples to an out-of-state laboratory to have the THC level tested.

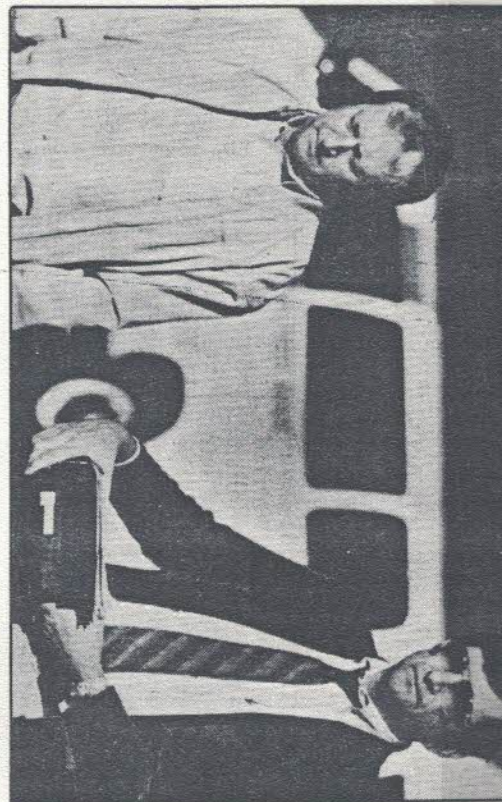
Meanwhile, Henry and Larry Ives, father of Kevin Ives, received from the state Crime Laboratory on Tuesday tissue samples that were used in the autopsies. The parents originally asked for the samples with Saline County Circuit Court orders in September 1987 but had said Monday they didn't receive everything that they had requested from the Crime Lab.

Malak disagreed, saying the families received all samples.

"They already have everything I've got," Malak said, adding he had no doubts about his original ruling. "Not only am I comfortable with it, but I am absolutely convinced that I was right."

**GETTING SAMPLES** - Curtis Henry (left) and private investigator Ray Love leave the state medical examiner's office Tuesday with tissue samples for independent analysis. Henry is the father of Don George Henry, 16, of Bryant, one of two boys killed last summer when a train hit them near Alexander. The parents want a further investigation into the boys' deaths.

Arkansas Democrat/Kim Fowler



The Crime Lab list given on Sept. 11, 1987, to Curtis Henry, Don Henry's father, included the following evidence: samples of liver, kidney, brain, blood and stomach contents.

The description of evidence released to Henry on Tuesday contained lung, heart, liver, pancreas, kidney, brain and spleen samples.



"As far as going to sleep, marijuana is not used as a sedative," McBay said. "It might relax tension and could help someone go off to sleep if they had gone to bed, but they would still be able to respond to stimuli. They would not remain in a stupor, like they might with alcohol."

"It (lack of consciousness) could happen with PCP or a drug of that nature," McBay said, "or with an excessive amount of alcohol."

He noted that smoking a lot of marijuana could produce an excited state. "People do get wild occasionally, but usually from fright. It happens with other drugs when they're getting a reaction they don't understand."

"We don't even look for marijuana" when trying to determine cause of death, McBay said. "That would be like looking for nicotine. You might know someone had smoked a cigarette, but you wouldn't be looking for that as the cause of death."

The boys' parents, Larry and Linda Ives and Curtis and Marvelle Henry, say they want a grand jury to look into their sons' deaths. They do not believe Saline County sheriff's investigators properly handled the investigation and they do not accept the medical examiner's ruling that their sons' deaths were accidental.

They did not publicly share these beliefs until earlier this week at a news conference at Otter Creek Holiday Inn. In that conference, all said they believe the boys could have been murdered.

Late Tuesday, the two fathers met with Malak and obtained tissue samples, X-rays and toxicology reports they say they had been denied earlier. These will be studied by an independent forensic pathologist.

Some time ago, the families obtained two court orders specifying the release of all tissue samples and information pertaining to the case. Ray Love, a private investigator they hired, reportedly presented the documents to Malak on previous attempts, but Love's requests were denied.

Larry Ives said Malak indicated he was cooperating now "out of the goodness of his heart, that he didn't have to," Ives said. "He said he had family, he had teen-agers, and he understood why we would want another opinion."

Malak 'apparently does not

believe he was in error in his findings, a feeling shared by Saline County Sheriff James Steed.

On Tuesday, Steed said he was satisfied with the investigation done by his department and that he has total confidence in Malak.

The sheriff said, "There was nothing at the scene of the accident that was visible that would make anyone think it was a homicide. That's the reason we

do an autopsy. If there were injuries that were not consistent with being run over by a train, these should have been detected by Dr. Malak and I have complete confidence in him."

Steed said he has "a lot of sympathy for these people. They have been through a terrible tragedy and they want to make certain this is really how their sons died."

The sheriff admitted that circumstances in the case were "strange" but could give no explanation as to why the two boys would lie across the tracks in identical positions. Neither moved as the train approached or showed any awareness of the approaching train, railroad personnel stated at the scene.

He said the case presently is "inactive" but is not officially closed.

The families do not consider the matter resolved.

"We will pursue it until we're satisfied beyond a doubt" that all questions have been answered, Larry Ives said.



Thursday, February 11, 1988 .

# Doctors doubt boys unconscious from marijuana

By James Scudder  
GAZETTE STAFF

Two doctors cast doubt Wednesday on the state medical examiner's conclusion that two teen-aged boys were "unconscious and in deep sleep" because of marijuana use when they were killed by a train.

However, the experts said marijuana could have affected the boys' perceptions of the situation they were in.

"I don't think you could put someone in a deep enough sleep, like an anesthetic, where they couldn't be aroused" by an approaching freight train, Dr. Donald McMillan, chairman of pharmacology at the University of Arkansas for Medical Science, said. "It's hard for me to imagine someone put into a sleep by marijuana from

which they couldn't be aroused."

Dr. McMillan said his "main area" of research had been marijuana and that his special projects had been funded by grants from the National Institute on Drug Abuse "for the last 15 or 20 years."

Dr. Arthur J. McBay, the chief toxicologist for the North Carolina medical examiner's office and a professor of pathology and pharmacology at the University of North Carolina at Chapel Hill, agreed with Dr. McMillan's statement.

"I have great reservation about saying somebody became unconscious because they smoked marijuana," Dr. McBay said in a telephone interview.

The two doctors were asked about marijuana effects after the two boys' fathers, Larry Ives of Benton and Curtis Henry of Bry-

ant, Tuesday visited the office of Dr. Fahmy Malak, the state medical examiner, and ask for and got evidence Dr. Malak used in reaching his conclusions.

Their sons, Larry Kevin Ives, 17, and Don George Henry, 16, were lying side by side across a Union Pacific Railroad track and, according to railroad personnel, didn't move as a train approached and ran over them about 4:25 a.m. August 23.

Dr. Malak's autopsy report said they were "under the psychedelic influence" of marijuana when the train passed over and killed them.

Dr. McMillan said persons who use marijuana "do go into a dream-like state, much like a mild sleeping pill" but it was "highly unlikely" the boys could have been comatose from marijuana use.

"A much more likely kind of scenario is these kids are high on the stuff, and do this on a dare," he said. "They have a bad sense of how far away the train was. \*\*\* They could have used bad judgment about how soon they needed to get up. It's not likely they were unconscious, but not impossible."

Dr. McMillan said it was "conceivable" that marijuana use could have kept the boys from perceiving the gravity of their situation, and added, "There are just so many variables — how much they had, when they had it, how much they had used in the past."

He also said it was unlikely that the boys would have hallucinated from the use of marijuana, and added, "You would not expect to see hallucination if someone smoked a marijuana cigarette."

Dr. McBay agreed that mari-

juana can distort one's perception of time.

He said he had told the Ives and Henry couples that if they would "get written data" about the procedure Dr. Malak used, he would "would look at it, at no charge."

Dr. Malak couldn't be reached Wednesday, but Howard Chandler, director of the State Crime Laboratory, said Dr. Malak had tested for other drugs, beside marijuana. He said he didn't know what they were or what, if anything, was found.

The parents of the boys have said they want a Grand Jury to investigate the deaths, but Joe Kelly Hardin, the Saline County prosecutor, said Wednesday he hadn't received a request. He said he would "wait and see" if any new information develops in the case.



# Garrett calls review hearing to investigate train deaths

By LYNDA HOLLENBECK  
Courier Staff Writer

Deputy Prosecutor Richard Garrett has called a prosecutor's hearing to look further into the Aug. 23 deaths of two Bryant teen-agers.

The hearing, which will be open to the public, will take place Feb. 18 and 19 at the Saline County Courthouse.

Garrett issued 33 subpoenas today for witnesses to testify in the hearing and said additional ones will be forthcoming. Names of witnesses will not be released until the subpoenas have been served.

Shortly before noon today, subpoenas had been served on the following persons: Shirley Raper, a paramedic at Saline Memorial Hospital; Billy Heath, an emergency medical technician at Saline Memorial; Ron

Eaton and Terry Mosley, paramedics for Benton Fire Department; Shannon Hills Officer Ron Daniels; Bryant Officer Danny Allen; Benton Police Chief Rick Elmendorf, who was chief deputy sheriff at the time of the deaths; Saline County Investigators Chuck Tallent and Jeff Ramsey; Chief Deputy Ray Richmond; Reserve Deputy Larry Davis; and Deputies Cathy Carty and Pat Hawkins.

Garrett said the forthcoming investigation will be an in-depth review of the circumstances surrounding the deaths of Kevin Ives, 17, and Don Henry, 16. The boys were run over by a Union Pacific train in the early morning hours as they lay across the tracks near the Arkansas 111 crossing west of Alexander.

Saline County investigators believe the deaths were acciden-

tal and a subsequent ruling by Dr. Fahmy Malak, state medical examiner, was consistent with that theory.

The boys' parents, Larry and Linda Ives and Curtis and Marvelle Henry, are not satisfied with the investigation or Malak's ruling and say they have many questions about the case. They say they have strong reasons to suspect that their sons could have been murdered.

In the autopsy reports, Malak concluded both boys were "unconscious and in deep sleep on the railroad tracks, under the psychedelic effects of marijuana," as they lay across the Arkansas 111 crossing west of Alexander. The positions of the boys were identical, according to railroad personnel on the approaching train.

An out-of-state toxicologist, who is considered one of the country's foremost authorities on marijuana, has sharply disputed Malak's contentions. Dr. Arthur J. McBay, chief toxicologist for the North Carolina medical examiner's office and former medical examiner for Massachusetts, contends that smoking marijuana — even a large quantity — will not cause a person to lose consciousness.

He says marijuana can produce a state of euphoria or excitement, even relaxation, but not deep sleep that makes a person unable to respond to stimuli. Hyperventilation is also a possibility if the cigarettes are smoked fast enough, he contends.

In his more than 30 years of work as a forensic pathologist, McBay said he has never even looked for marijuana when trying to determine cause of death.

Earlier this week, the parents of the two teen-agers announced they wanted a grand jury to look into their sons' deaths.

Garrett said today a grand jury investigation is still possible. "In a prosecutor's investigation, an in-depth investigation is conducted to review the case and all the evidence to determine if charges are to be levied or if further investigation is needed."

Grand jury investigations are closed to the public, but a prosecutor's investigation is conducted in open court.

Garrett said he has called for the investigation because "the parents obviously don't feel they have found out everything they need to find out, and I really feel like we have an obligation to provide them with that information and they have the right to receive it."

The investigation is a "service to them and to the community, too," Garrett said.

Late Tuesday, the fathers of the two boys met with Malak and obtained tissue samples, X-rays and toxicology reports they say they had been denied earlier. These will be studied by an independent forensic pathologist.

Some time ago, the families obtained two court orders specifying the release of all tissue samples and information pertaining to the case. Ray Love, a private investigator hired by the two families, reportedly presented the documents to Malak on previous attempts, but Love's requests were denied.

Malak was cooperative with the families this week and indicated he had been unaware of the earlier requests or court orders. He apparently does not believe he was in error in his findings in the case, a feeling shared by Saline County Sheriff James Steed.

On Tuesday, Steed said he is satisfied with the investigation done by his department and that he has total confidence in Malak.



# Engineer, train victim's father, worked route prior to tragedy

BY MAX PARKER  
Democrat State Desk

BENTON — The father of one of two young Saline County boys killed by a train last summer said if the accident had occurred one month earlier, he couldn't have lived with it.

Larry Kevin Ives, 17, of Benton and Don George Henry, 16, of Bryant were killed about 4:25 a.m. Aug. 23, 1987, by a Union Pacific train. The two were lying across railroad tracks near the Arkansas 111 crossing west of Alexander.

Larry Ives, father of Kevin Ives, is employed as an engineer for Union Pacific Railroad Co.

"I was, up until a month before this happened, assigned to that same route," Ives said during a recent telephone interview. "I just thank God I wasn't on that same route when this happened. I don't believe I could have lived with that."

The train approached at 50 miles per hour. The engineer said he saw the boys, sounded

the train's whistles and bells, but was unable to stop the train.

"The guy who was aboard the train that night was the person who took over my old job," Ives said, adding he now is assigned to a route to Poplar Bluff, Mo.

Both families said they do not hold Union Pacific responsible for their sons' deaths and never would consider legal action against the company.

The boys' deaths were ruled accidental Aug. 24, 1987, by Dr. Fahmy Malak, state medical

examiner.

In the autopsy reports, Malak said the two were "unconscious and in deep sleep on the railroad tracks under the psychedelic influence" of marijuana when a train ran over and killed them.

Monday, the parents said they still were trying to collect enough evidence to warrant a grand jury investigation into the deaths.

Citing that no traces of alcohol or other drugs were found in the teens' systems, the parents said they searched nation-

wide for an expert who could corroborate such an effect caused by marijuana alone.

Tuesday, tissue samples, X-rays and other data from the boys' autopsies were received from the state Crime Laboratory, said Curtis Henry, father of Don Henry.

Malak told the parents Tuesday they should consider exhuming the bodies and having them examined by out-of-state pathologists. He said he believes the laboratory's findings will be substantiated.

Henry said that Wednesday he forwarded some samples to another pathologist for a second opinion. He said he also plans to send samples to Dr. Arthur J. McBay, chief toxicologist for the state medical examiner's office in North Carolina.

McBay, author of numerous articles on marijuana use and a professor of pathology and pharmacology at the University of North Carolina at Chapel Hill, has disputed Malak's findings.



## Prosecutor calls hearing in train deaths of two

BENTON — The deputy prosecutor of Saline County has called a prosecutor's hearing beginning February 18 to investigate the deaths of two teen-aged boys who were struck and killed by a train last year.

Richard Garrett of Benton said Thursday he had issued 33 subpoenas for witnesses to testify about the circumstances surrounding the deaths of Larry Kevin Ives, 17, and Don George Henry, 16, who were run over by a Union Pacific train while they lay side by side on railroad tracks in eastern Pulaski County about 4:25 a.m. August 23.

Garrett described a prosecutor's investigation as an in-depth review of all evidence to determine if charges are to be filed or a further investigation is needed. The investigation will be in open court. Garrett wouldn't release the names of those subpoenaed, but said they included authorities from Bryant, Benton, Shannon Hills and Saline County and medical personnel. He said he didn't know how long the hearing would last.

Saline County Sheriff James Steed has said his investigators had concluded the deaths were accidental, and Dr. Fahmy Malak,

the state medical examiner, has said the boys were in a deep, marijuana-induced sleep when they were struck by the train.

Wednesday, two doctors, one a pathologist and the other a pharmacologist, said it was unlikely that the boys could have smoked enough marijuana to make them comatose. Investigators found marijuana in each of the boy's pockets, and Dr. Malak concluded that they had smoked large quantities.

The boys' parents, Larry and Linda Ives and Curtis and Marvelle George, have been pressing for a special Grand Jury investigation, citing their dissatisfaction with the sheriff's investigation at the accident scene and Dr. Malak's findings.

The fathers visited Dr. Malak's office Wednesday and obtained tissue samples and other materials that were used in reaching the autopsy conclusion. They have turned the material over to a private pathologist for his review.



## Special hearing set on deaths of teen-age boys

BY DOUG THOMPSON  
AND MAX PARKER  
Democrat Staff Writers

BENTON — Saline County Deputy Prosecuting Attorney Richard Garrett said Thursday an investigative hearing has been scheduled next week to look into the deaths of two youths killed last summer.

The announcement came after the boys' parents, dissatisfied with a ruling that the deaths of their children were drug-related, turned to the news media this week for help.

Larry Kevin Ives, 17, of Benton and Don George Henry, 16, of Bryant were killed about 4:25 a.m. Aug. 23, 1987, by a Union Pacific train. The two were lying across railroad tracks near the Arkansas 111 crossing west of Alexander.

The boys' parents on Monday told reporters they wanted a grand jury investigation. But Garrett said calling a grand jury now would be "premature."

"The object of a grand jury is to issue indictments," Garrett said. "We don't yet have any evidence that a crime has been committed. And we certainly don't have any suspects."

Garrett has scheduled the hearing for next Thursday and Friday in Saline County Circuit Court.

The teens' deaths were ruled accidental Aug. 24, 1987, by Dr. Fahmy Malak, state medical examiner. In the autopsy reports, Malak said the two were "unconscious and in deep sleep on the railroad tracks under the psychedelic influence" of marijuana when the train ran over and killed them.

Those findings have been disputed by authorities such as Dr. Arthur J. McBay, chief toxicologist for the state medical examiner's office in North

### At a glance

- The Saline County prosecuting attorney's office will hold an open investigative hearing next week in the deaths of two teens last summer.
- Parents of the boys had called for a grand jury investigation. Richard Garrett, the deputy prosecuting attorney who will conduct the investigation, said calling a grand jury would be premature.
- The hearing will be held Thursday and Friday in Saline County Circuit Court.
- Of 32 people subpoenaed to testify in the hearing, 21 had been served by late Thursday.

Carolina and a noted expert on the effects of marijuana.

McBay, who has agreed to a request by the parents to examine the data used to measure levels of marijuana in the boys' systems, commented on Malak's findings when read portions of the autopsy report by a reporter.

The proceeding, called a prosecutor's investigation, will be very similar to a grand jury, he said, except it will be open to the public. The rules of evidence in this type of hearing are also less stringent.

"What I'm trying to do, mainly, is go through what has been done and see if the conclusions were accurate, or whether further investigation is needed," Garrett said. "The parents and the public both have a right to see that this in-

cident is adequately investigated. There is no indication I know of (of a criminal act) other than the circumstances of the deaths, which are very suspicious."

Ray Love of Little Rock, a private investigator who was hired by the families in September 1987, said he too has many unanswered questions about the boys' deaths.

"It was just done so neatly," Love said. "I mean it just seemed too coordinated the way the boys were both laying side by side with the gun placed between them. If a person's high, from what I've found out, they are not going to be that coordinated."

The gun to which Love referred was a .22-caliber rifle that belonged to Don Henry. The boys had told people they were going hunting that night. Neither boy was shot, Malak ruled.

Love said he has talked to at least 100 people, including medical experts and possible witnesses.

"No one I've talked to has bought the story (that the boys were unconscious from marijuana use)," Love said. "From the very beginning, it's been a bunch of dead-end roads. With no evidence of foul play it just puts you right back where you start."

Garrett, who is running for prosecuting attorney, said he called the hearing now because he didn't earlier realize the degree to which the parents were upset until he "saw it in the paper." The prosecutor's office had no direct dealings in the case before now because no charges were ever filed.

"The parents are upset. They don't feel like they've been treated fairly," Garrett said. "They don't have answers to a lot of questions and they don't agree with the investiga-

tion's findings."

Curtis Henry, father of Don Henry, said Garrett telephoned him about 6:30 a.m. Thursday.

"He wanted to know how I felt about what had happened," Henry said. "I really don't care if it takes a grand jury hearing or if it's done on a local basis. We just want more proof."

Henry said he believed recent publicity about the case "got the ball rolling."

"We're finally on the road to getting some answers," he said. "I am just tickled to death about this."

Larry Ives, father of Kevin Ives, was just as happy about Garrett's decision.

"He has asked us to prepare and write down a set of questions that we would like answers to," Ives said Thursday. "Instead of us going to people and asking questions, now certain parties are coming to us. Maybe there finally will be some answers that come out."

Both men said they had received numerous telephone calls from people offering their support.

"We're just hoping all this will bring out something that will shed some light on things and possibly snowball into something else," Ives said.

Garrett subpoenaed 32 people Thursday and said he expects to call more.

"So far, I've subpoenaed anybody with any pertinent information at all," Garrett said, adding he would preside over the hearing and under Arkansas law, would have the power to issue indictments at its conclusion.

Names of those subpoenaed will not be released until after they have been served because not everyone may want to testify, Garrett said.

Twenty-one people had been served by Thursday after-

noon to the train's crew, police and paramedics, Chief Deputy Ray Richmond with the sheriff's office said.

Henry and Ives said they too would be subpoenaed. A secretary said Thursday that no subpoena had yet been served to the medical examiner.

Although the hearing is open to the public, Garrett said, "I don't want it turning into a three-ring circus. It would be all right with me if the press wasn't there, al-

though I doubt that will happen with the publicity this case has received."

This may be the first time this procedure has been used in Saline County. Garrett said he has no knowledge of it ever being used there before. Circuit Judge John Cole of Sheridan said he definitely knows of only one such proceeding in the 7th Judicial District. Cole presided over one in Malvern in 1976, while he was prosecutor.



## Malak stands by ruling in deaths

By LYNDA HOLLENBECK  
and LEE BROCKWAY  
Courier Staff Writers

Dr. Fahmy Malak, state medical examiner, contends he has no reservations about his rulings in the Aug. 23 deaths of two Bryant teen-agers who were run over by a Union Pacific train as they lay across the tracks near the Arkansas 111 crossing west of Alexander.

According to Malak, Kevin Ives, 17, and Don Henry, 16, were "unconscious and in deep sleep on the railroad tracks, under the psychedelic effects of marijuana." The positions of the boys were identical, according to railroad personnel on the train.

Saline County Sheriff James Steed said he is satisfied with the investigation conducted by his department and is confident that Malak did not err in his conclusions. Steed is convinced the deaths were accidental and investigators in his office said they had no reason to suspect foul play.

Why then are the parents of the two boys requesting authorities to re-open the investigation?

Larry and Linda Ives and Curtis and Marvelle Henry say they have never accepted the ruling that their sons' deaths were accidental and have many unresolved questions about the circumstances that led up to the deaths.

A Saline Memorial Hospital ambulance report obtained by a *Benton Courier* reporter Thursday afternoon indicates the paramedics at the scene may have questioned the time of death. The report concludes with this notation: "Blood from the bodies and on the body parts we observed was a dark color in nature. Due to our training, this would indicate a lack of oxygen present in the blood and could pose a question as to how long

the victims had been down/dead."

The report was prepared by paramedic Shirley Raper, who arrived at the scene approximately 18 minutes after the train struck the boys. The report is also signed by Billy Heath, an emergency medical technician, who accompanied Raper.

Dr. Marvin Leibovich, director of the Emergency Department at Baptist Medical Center and Med-Flight, was contacted for his opinion about the paramedic's comments about the victims' blood. Leibovich said the rate blood darkens depends upon the individual, the effects of chemicals in the body, and the point of circulation within the body.

Since he was not at the scene, Leibovich said it would be difficult for him to draw any conclusions about the paramedic's comment.

Also, the parents say they requested county investigators to bring the State Police into the investigation. This was never done, according to Linda Ives.

Col. Tommy Goodwin, director of the State Police, told Ives a request for assistance was never received in his office.

Saline County Chief Deputy Ray Richmond said today he had not personally been aware that a request had ever been made for State Police assistance.

"When Dr. Malak's ruling came back, there was no indication of homicide," therefore precluding the need to call in the State Police, Richmond said.

Richmond was not serving in the position of chief deputy at the time of the incident. Benton Police Chief Rick Elmendorf was chief deputy at that time.

In addition, the parents contend the scene was not searched thoroughly for evidence of a crime. A family member recovered a foot from one of the bodies, the stock and other parts from a gun the boys had had with them, according to Ives.

During interviews, three train crew members reported seeing a green tarpaulin partially covering the boys as they lay on the tracks. One of the crew reportedly saw where the tarpaulin landed and pointed this out to a county investigator, but county investigators claim this tarpaulin was an "optical illusion."

The families also cannot understand why the two boys were lying in identical positions on the tracks. All eye-witness accounts state that both boys were lying side by side on their backs with their heads between the rails and their legs positioned over the south rail of the tracks. Their arms and hands were to their sides and they were "looking straight up," according to one report.

Malak's autopsy results have also been questioned by an out-of-state toxicologist, who is considered one of the country's foremost authorities on marijuana. Dr. Arthur J. McBay, chief toxicologist for the North Carolina medical examiner's office and former medical examiner for Massachusetts, said smoking marijuana — even a large quantity — will not cause a person to lose consciousness.

The parents hope all of their questions will be answered in a prosecutor's investigation scheduled Thursday and Friday. Deputy Prosecutor Richard Garrett said the hearing will be held at the county courthouse and will be open to the public.

Garrett said Thursday a grand jury investigation is still possible.

On Thursday Garrett issued 33 subpoenas for witnesses to testify in the hearing and said additional ones would be forthcoming. Names of witnesses will not be released until the subpoenas have been served.



## More subpoenas planned in death query

BY DOUG THOMPSON  
Democrat Benton Bureau

BENTON — Deputy Prosecuting Attorney Richard Garrett will issue as many as 15 more subpoenas in his investigation of the mysterious deaths of two Saline County youths.

"I'm getting the subpoenas ready now," Garrett said Friday afternoon. "I should have about a dozen more, maybe 15." Thirty-two subpoenas were issued Thursday and 28 were served as of Friday afternoon.

Larry Kevin Ives, 17, of Benton and Don George Henry, 16, of Bryant were run over by a train before dawn on Aug. 23. State Medical Examiner Fahmy Malak ruled the deaths were accidental.

He concluded the boys were lying on the tracks in a mari-

juana-induced stupor. This finding has been questioned by the parents and experts they contacted.

The boys' parents on Monday publicly requested a grand jury investigation. Garrett announced Thursday he will conduct a prosecutor's investigation, which is similar to a grand jury but is open. Garrett will preside over the hearing. He has subpoena power and could issue indictments.

The hearing is set for Thursday and Friday in Saline County Circuit Court in Benton.

Slated to testify so far are:

- Train crew members Jerry Tomlin, James Stihnett, James Shroyer and Danny Delmar.

- Paramedics Shirley Raper, Billy Heath, Ron Eton and Terry Mosley.

- Personnel from the Saline County sheriff's office: Rick Elmendorf (who since has been named Benton police chief), Ray Richmond, Larry Davis, Chuck Tallent, Cathy Carty, Pat Hawkins and Jeff Ramsey.

- Bryant High School students Brenda Glenn, Mike Seamon, Dwayne Biggs, Sharon Liggins, Lisa Griffis, Marty Thompson and David Russell.

- And: Shannon Hills patrol officer Ron Daniels; Saline County Coroner Sam Ballard; Arkansas State Police trooper Jim Lainehart; Don Henry's sister, Gayla Henry; and Stansel Harvey, Saline Memorial Hospital associate administrator.

Garrett is a Democratic candidate for prosecuting attorney. Incumbent Joe Kelly Har-

din is not seeking re-election. Garrett's announcement comes less than four weeks before the March 8 Democratic primary.

Garrett is running against Gary Arnold, a Benton lawyer. Arnold was asked Friday if he thought Garrett's investigation might affect the election.

"The parents are concerned and have a lot of questions," Arnold said. "They are entitled to have those concerns addressed and — to the extent possible — have their questions answered."

"But I have two questions," Arnold said. "Why is this happening now, after the parents have asked these questions for months, and why is the deputy prosecutor doing it instead of the prosecuting attorney?"



Saturday, February 13, 1988

## Boys' friends, train crew members subpoenaed for special hearing

BENTON — Twenty-eight of 32 subpoenas were delivered Thursday and Friday for persons who will testify in a prosecutor's hearing that will begin Thursday on the deaths of two teen-aged boys last year.

A Saline County sheriff's deputy said that among those subpoenaed are students who knew Larry Kevin Ives, 17, and Don George Henry, 16, who were run over by a Union Pacific train while they lay side by side on railroad tracks in eastern Pulaski County about 4:25 a.m. August 23.

Richard Garrett of Benton, the deputy prosecutor of Saline County, called the special hearing to review evidence in the case and to determine whether a further investigation is warranted. Larry and Linda Ives and Curtis and Marvella George, parents of the boys, have said they are dissatisfied with the way the deaths were

investigated and with a conclusion by Dr. Fahmy Malak, the state medical examiner, that the boys were in a deep, marijuana-induced sleep when they were run over by the train.

Dr. Malak had not been subpoenaed Friday afternoon, and Ray Richman, chief deputy of the Saline County sheriff's office, refused to say whether he was on the list. However, he said four subpoenas remained to be served.

### All were interviewed

Richman said all of those subpoenaed were interviewed by sheriff's investigators after the accident.

Along with Richman, those subpoenaed were named by Richman as:

Lisa Griffis, student; Stancil Harvey, Saline Memorial Hospital; Sharon Liggans, student; Gayla Henry; Danny Delmar, a member

of the train crew; David Russell, student; Danny Allen, Bryant Police Department; Trooper Lainhart of the Arkansas State Police; Terry Mosley, Benton Fire Department; Ron Eaton, Benton Fire Department; Jeff Ramsey, sheriff's investigator; Pat Hawkins, sheriff's deputy, and Kathy Carty, sheriff's deputy.

Chuck Tallent, investigator for the sheriff's office; Sam Ballard, Saline County coroner; Chief Rick Elmendorf, Benton Police Department; Ron Daniels, Shannon Hills Police Department; Danny Allen, Bryant Police Department; Larry Davis, sheriff's office; Billy Heath, Saline Memorial Hospital paramedic; James Stihnett, a member of the train crew; Shirley Raper, Saline Memorial Hospital; Brenda Glenn, student; Jerry Tomlin, train engineer; James S. Shroyer, a member of the train crew; Dwayne Biggs, student, and Mike Seamon, student.



# Hearings could begin by Tuesday

By LYNDA HOLLENBECK  
and LEE BROCKWAY  
Courier Staff Writers

Public hearings into the deaths of two Bryant teen-agers last summer may begin as early as Tuesday with testimony from employees of the state Crime Laboratory.

Deputy Prosecutor Richard Garrett said early today he will attempt to hold the first of three hearings Tuesday if subpoenas can be served on those employees. Serving the employees was expected to be hampered by today's closing of the laboratory for Presidents' Day, he said.

Only two hearings were originally slated for Thursday and Friday, but Garrett said he would like an additional day to allow sufficient time for the testimony of 35 witnesses subpoenaed since Thursday. Additional subpoenas will be forthcoming, according to Garrett.

Kevin Ives, 17, and 16-year-old Don Henry were run over by a Union Pacific train at 4:25 a.m. on Aug. 23 near the Arkansas 111 crossing west of Alexander as they were lying on the tracks in identical positions.

Last week, the boys' parents, Larry and Linda Ives and Curtis and Marvelle Henry, publicly revealed their dissatisfaction with the investigation conducted by the Saline County Sheriff's Office and the autopsy findings of the state medical examiner.

Medical Examiner Dr. Fahmy Malak said his autopsy results indicated the boys were "unconscious and in deep sleep on the railroad tracks, under the psychedelic effects of marijuana" when they were struck by the train.

Witnesses subpoenaed to testify as of today in Thursday and Friday's hearings include: Saline Memorial Hospital Assistant Administrator Stansel Harvey; SMH paramedic Shirley Raper and emergency medical technician Billy Heath; Benton Fire Department paramedics Ron Eaton and Terry Mosley; Shannon Hills Officer Ron Daniels; Bryant Officer Danny Allen; and Benton Police Chief Rick Elmendorf.

Chief Deputy Ray Richmond; Saline County Investigators Chuck Tallent and Jeff Ramsey; Reserve Deputies Larry Davis and Bobby Herr; and Deputies Cathy Carty and Pat Hawkins; State Trooper Wayne Lainhart; and Coroner Sam Ballard.

Malak; crew members Danny Delamar, Jerry Tomlin, James S. Shroyer and James Stihnett; students Brenda Glenn, Jennifer Brooks, Lisa Griffs, Mike Harper, David Russell, Dwayne Biggs, Mike Seamon, Charles Dodds, Kellye Smith, Sharon Liggins and Tammy Garrett; and Henry's sister, Gayle

Henry.

Garrett said today about 10 more subpoenas will be issued today. The additional subpoenas will include at least two employees of the state Crime Laboratory.

When asked why the hearings are taking place at this time, Garrett said, "I didn't know anything about this since there hadn't been any kind of determination a crime had been committed. I didn't know anything about it" until the families made their concerns about the case public.

A candidate for the prosecutor's post, Garrett said, "I just get mad when these people have been spending their money and the state should be doing it and the state has a lot more money than they do."

Garrett is facing Benton attorney Gary Arnold in the primary race for prosecutor.

Calling the hearings at this time is not a political move, Garrett said. He charged that those who have questioned his political motives show a "lack of compassion" toward the families, he said, and waiting until after the March 8 primary election would serve little purpose. "Every day the trail gets colder," he said.

The deputy prosecutor said he is handling the inquiry because Prosecutor Joe Hardin is currently involved in other time-consuming cases.

"I was hired by the prosecutor's office to try cases and this goes along with the reasons why I was hired," he said. "I was hired to try cases and prepare cases for trial. This type of thing fits in with my expertise in trying cases and that's why I was assigned this. I feel like it needs to be done and should be done."

"I'm able to do it," Garrett said, "and I'm willing to do it and I'm going to do it."



# Hearings in deaths to begin Thursday

By LYNDA HOLLENBECK  
Courier Staff Writer

Public hearings into the deaths of two Bryant teen-agers last summer will not get under way until Thursday morning.

Deputy Prosecutor Richard Garrett, who initiated a prosecutor's investigation after families of the two boys publicly revealed their dissatisfaction with the investigation conducted by the Saline County Sheriff's Office and the ruling of the state medical examiner, had hoped the hearings might begin as early as today.

However, Garrett said the law requires more notice than he would have been able to give to state Crime Lab employees, whom he had initially planned to question today.

Serving subpoenas on the employees was hampered by the closing of the laboratory for Presidents' Day on Monday.

The hearings are expected to continue through Monday when Dr. Fahmy Malak, the medical examiner, is scheduled to testify. Malak is out of town this week and would not be available to testify either Thursday or Fri-

day, according to Garrett.

Thursday's hearing will begin at 9 a.m. in the large courtroom of the Saline County Courthouse. The procedure is open to the public.

The investigation will probe the deaths of Kevin Ives, 17, and 16-year-old Don Henry, who were run over by a Union Pacific train at 4:25 a.m. Aug. 23 near the Arkansas 111 crossing west of Alexander as they were lying on the tracks in identical positions.

Last week, the boys' parents, Larry and Linda Ives and Curtis and Marvelle Henry, held a news conference to announce their frustration with the investigation and with the medical examiner's findings.

In the autopsy report, Malak stated the boys were "unconscious and in deep sleep on the railroad tracks, under the psychedelic effects of marijuana" when they were struck by the train. The families and medical experts have questioned the ability of marijuana to produce a loss of consciousness.

Garrett, accompanied by the fathers of the victims, went to the railroad crossing Monday

night and remained at the scene until a train went over the crossing. That experience strengthened his suspicions that the deaths were not accidental, Garrett said today.

"I can't believe the boys could not get up if they were alive because it's really frightening," he said.

When asked why the hearings are taking place at this time, Garrett said he had been unaware of the families' feelings about the investigation prior to the news conference last week. His decision to conduct the investigation has nothing to do with political issues, he said. (Garrett faces Benton attorney Gary Arnold in the local race for prosecuting attorney.)

Curtis Henry called *The Benton Courier* today and said he does not believe Garrett's actions are politically motivated.

"In my heart, I truly believe he's not doing this for political reasons," Henry said. "He's doing it because he's concerned that we haven't gotten answers to our questions."

"I think he'd be doing the same thing, no matter whether he wins or loses," Henry said.

## *Fund set up for families*

A fund has been established for the parents of two Bryant boys killed Aug. 23 when they were struck by a Union Pacific train near the Arkansas 111 crossing west of Alexander.

The Don Henry or Kevin Ives Fund was opened today at Benton State Bank by friends of the family to assist

*See FUND, page 2*

"He's a family man and is concerned about what we've been through."

The upcoming election was not a factor in the timing of the families' news conference, Henry said. "The election didn't enter my mind. I was trying to find out what happened to my son."

Henry also praised Circuit Judge John W. Cole. "I've called him numerous times since the

*See HEARINGS, page 2*



# Hearings

*Continued from page 1*

boys died and he has always taken the time to talk to me, which I appreciate," he said. "I know he's a busy man, but I want the public to know that he never refused to talk to me. He's been understanding and never failed to return a call.

"He made the time to talk to me when I'm sure he didn't have it to spare," Henry said. "There's no way I can express how I feel about this or how much it means to me that he has made himself available to hear me."

The deputy prosecutor said he is handling the inquiry because Prosecutor Joe Hardin is currently involved in other cases.

Witnesses subpoenaed to testify as of today in Thursday and Friday's hearings include: Saline Memorial Hospital Assistant Administrator Stansel Harvey; SMH paramedic Shirley Raper and emergency medical

technician Billy Heath; Benton Fire Department paramedics Ron Eaton and Terry Mosley; Shannon Hills Officer Ron Daniels; Bryant Officer Danny Allen; and Benton Police Chief Rick Elmendorf.

Chief Deputy Ray Richmond; Saline County Investigators Chuck Tallent and Jeff Ramsey; Reserve Deputies Larry Davis and Bobby Herr; and Deputies Cathy Carty and Pat Hawkins; State Trooper Wayne Lainhart; and Coroner Sam Ballard.

Malak; crew members Danny Delamar, Jerry Tomlin, James S. Shroyer and James Stihnett; students Brenda Glenn, Jennifer Brooks, Lisa Griffis, Mike Harper, David Russell, Dwayne Biggs, Mike Seamon, Charles Dodds, Kellye Smith, Sharon Liggans and Tammy Garrett; and Henry's sister, Gayle Henry.

Several more subpoenas have been issued, Garrett said.

# Fund

*Continued from page 1*

Curtis and Marvelle Henry and Larry and Linda Ives with costs they have incurred in investigating the deaths of their sons, according to a friend of the Henrys.

Contributions can be made in

person at any of the banks' facilities or by mail. Contributions by mail should be made in care of Benton State Bank, P.O. Box 9, Benton, Ark., 72015.

Public hearings into the deaths will be conducted by the prosecutor's office Thursday and Friday at the Saline County Courthouse.





Courier photo by Phillip Felton

Saline County Sheriff James Steed reads a prepared statement in a press conference today as Linda Ives, standing, and Marvelle Henry, seated, look on. Steed's statement indicates the sheriff's office will formally request assistance from the State Police in probing the deaths of Kevin Ives, 17, and Don Henry, 16. Larry Ives, representing the Ives and Henry families, also read a prepared statement.

## Case never closed, Steed says

By LYNDA HOLLENBECK  
and LEE BROCKWAY  
Courier Staff Writers

Saline County Sheriff Jim Steed said today his office has never closed its investigation into the deaths of two Bryant teen-agers killed Aug. 23 when they were struck by a train near Alexander.

Steed, in a prepared news release, said the deaths of Don Henry, 16, and Kevin Ives, 17, will continue to be investigated by his office "until there are no other leads or information to gather." He said additional laboratory tests and opinions "may be necessary" if questions about state Medical Examiner Dr. Fahmy Malak's tests "are not satisfactorily answered."

He said he will make a written request for the assistance of the State Police, which the

parents have said they repeatedly requested. A sheriff's office spokesman said earlier he was unaware the parents wanted the State Police involved.

The boys were run over by a Union Pacific train at 4:25 a.m. near the Arkansas 111 crossing west of Alexander. They were lying in identical positions and did not make any movement or appear to be aware of the approaching train, according to interviews with the train crew.

Their parents, Curtis and Marvelle Henry and Larry and Linda Ives, also issued a news release today saying they are not dissatisfied with the sheriff's office investigation.

Larry Ives said, "The problems we have encountered in the investigation of our sons' deaths have not been with the Saline County Sheriff's Department. The sheriff's department

has been cooperative and helpful and has devoted a great deal of man hours to the investigation."

He said, "It is unfortunate that the initial crime scene search did not uncover everything that it should have ... We have encountered problems getting the state Crime Lab to cooperate and felt that a court order was necessary to obtain information. The sheriff's office has never refused to cooperate. They were included in the court order simply to be certain that if any one did refuse to cooperate, we would have everyone covered and not have to return to court for additional relief."

Ives said the families are pleased with the progress being made in the investigation and want every lead followed.

Hearings into the deaths of

See DEATHS, page 2



# Deaths

*Continued from page 1*

the boys will get under way at 9 a.m. Thursday at the Saline County Courthouse. The public hearings will be conducted by Deputy Prosecutor Richard Garrett, who called the inquiry after the families voiced their dissatisfaction with the investigation last week. At that time they were critical of Malak's ruling, as well as the sheriff's office investigation.

Malak has ruled the boys were "unconscious and in deep sleep on the railroad tracks, under the psychedelic effects of marijuana" when they were hit by the train.

In an interview Tuesday night, Saline Memorial Hospital ambulance personnel gave their impressions of the scene.

The official report on file at the hospital includes this notation from paramedic Shirley Raper: "Blood from the bodies and on the body parts we observed was a dark color in nature. Due to our training, this would indicate a lack of oxygen present in the blood and could pose a question as to how long the victims had been down/dead."

Raper and emergency medical technician Billy Heath said there was an absence of fresh blood, as is normally present at most trauma sites. They added that none of the blood appeared to have dried.

The color of the blood "for some reason stuck out like a sore thumb," Raper said. Heath said they expected to find "fresher, more colorful" blood. "When you go to a trauma scene you will see blood splattered everywhere."

Raper described the scene as being "bland. It was just strange." She compared the victims' bodies to "a sawdust, colorless dummy. We knew we could not help them medically."

"It's very odd," Heath said.

Heath said he didn't "feel right about it" when a crew member told him what the crew had seen before the train struck the boys. Raper said she had "funny vibes" about the scene.

After being at the scene a few minutes, Raper attempted to move the ambulance closer to the impact site by using a secondary route. While on the alternate route, Raper said she encountered a small pickup truck driving through a wooded

area near the scene.

The truck, occupied by three men, drove toward the right side of the ambulance from the woods, Raper said. She said she was surprised to see it since a bystander, who was with her in the ambulance, had told her the lane they were using was the only other way to get to the tracks.

She said she was unable to describe the pickup truck or the three men. However, the bystander with her, a young black man, got out of the ambulance and talked with the men while Raper drove around a curve toward the tracks, she said. When she realized she would be unable to get to the area, Raper said she backed up the ambulance and did not see the pickup truck again.

Heath said while Raper was in the ambulance he pointed out various body parts, including three feet, to sheriff's deputies. However, deputies only recovered two feet and a third was found later by a relative of the Henry family.

Raper and Heath said it was extremely dark while they were at the scene and it was necessary to use flashlights to see.



## Attorney doubts deaths on tracks accidental

BY DOUG THOMPSON  
AND MAX PARKER  
Democrat Staff Writers

BENTON — Richard Garrett, Saline County deputy prosecuting attorney, said Tuesday it did not seem possible that the Aug. 23, 1987, deaths of two Saline County boys at a railroad crossing were accidental.

Larry Kevin Ives, 17, of Benton and Don George Henry, 16, of Bryant were killed about 4:23 a.m. that day when struck by a Union Pacific train. The deaths were ruled accidental Aug. 24, 1987, by Dr. Fahmy Malak, the state medical examiner. He said the teen-agers were in a drug-induced sleep when struck.

Garrett went to the site of the boys' deaths Monday night and laid on the tracks near the Arkansas 111 crossing west of Alexander. He was accompanied by the youths' fathers.

Garrett recalled Tuesday that when a train neared: "The rails shook, the noise was deaf-

ening and the light was bright. I don't see how two people could sleep on the tracks while a train was coming. One (of the teen-agers) might have been a heavy-enough sleeper, but not both."

Malak's autopsy reports said the two were "unconscious and in deep sleep on the railroad tracks under the psychedelic influence" of marijuana.

"Him laying there, well you could just see your boy laying there," said Curtis Henry, Don's father, about examining the tracks Monday night. "It wasn't very pleasing. I don't know how to put it really ... it was really hard, emotionally."

Garrett originally said his inspection of the tracks and his suspicions that the deaths were not accidental were to be off the record and not for publication. However, he agreed to be quoted after his remarks were reprinted Tuesday afternoon in the *Benton Courier*.

See DEATHS, Page 15A



# Deaths

• Continued from Page One

Garrett said he and the fathers went to the site "30 to 40 minutes before a train arrived."

"I laid down on the tracks in the same position the boys were. It was very uncomfortable. The only way I could get halfway comfortable was to rest my head on the rail."

The boys, however, had their heads inside the rail with their feet dangling, he said.

***'I laid down on the tracks in the same position the boys were. It was very uncomfortable. The only way I could get halfway comfortable was to rest my head on the rail.'***

"I could see the train coming from over a mile away, maybe a mile and a quarter to a mile and a half," Garrett said. "And you could tell which track the train was on."

There are two parallel rail lines at the site, Garrett said.

Henry said he was standing "right at Garrett's head" during the re-enactment.

"He had on a pair of insulated coveralls and was trying to position himself just like they were laying," Henry said, adding he previously did the same to see how comfortable the position was. "He told us

## At a glance

- Richard Garrett, Saline County deputy prosecuting attorney, said Tuesday it did not seem possible that the deaths of two teen-agers at a rail crossing last summer was accidental.

- Dr. Fahmy Malak, state medical examiner, has ruled the deaths accidental and said the teens were in a marijuana-induced sleep when struck by the Union Pacific train.

- Garrett went to the scene of the deaths Monday night and attempted to re-enact the incident by lying on the tracks and waiting for a train to approach.

- Nine more people were subpoenaed Tuesday to testify in an investigative hearing into the deaths, which were called by Garrett, and brings the total number of prospective witnesses to 41. The hearing begins at 9 a.m. Thursday in Saline County Circuit Court.

the rocks were hurting his back and said there was no way to lay there and be comfortable."

At the time of their deaths, the boys were wearing T-shirts, Henry said.

Garrett stood on the unused track as the train approached on the opposite track.

"I was about five feet from the track the boys were on," Garrett said.

"We could hear the train coming a lot farther than we could see it," Henry said.

"I stayed on the track as long as I could, and I couldn't stand it after the train got within a half mile," Garrett said. "It was very frightening. It was scary. I don't see how anyone could have slept

through it."

"My opinion is there is no way that it could have happened that way," Henry said.

The train's crew told police they saw the boys lying side by side in identical positions just before impact. Neither moved despite repeated soundings of the train's horn and bells, the crew said.

Garrett, who requested an investigative hearing into the case Feb. 12, set aside Thursday and Friday for the hearings. He has extended the hearings until Monday to allow Malak, who will be out of town Thursday and Friday, to testify.

The hearing is scheduled for 9 a.m. Thursday in Saline County Circuit Court at Benton.

Garrett said he subpoenaed nine more people Tuesday to testify, bringing the total number of prospective witnesses to 41. Of those, 28 were served with subpoenas by Tuesday afternoon, said chief Deputy Ray Richmond of the Saline County sheriff's office.

Henry said he had spent nearly all his money trying to find an out-of-state medical expert to review the medical examiner's ruling.

An account was established Tuesday at Benton State Bank to help the parents with mounting costs. Donations to the account, called the Don Henry or Kevin Ives fund, can be mailed to Benton State Bank, P.O. Box 9, Benton, AR 72015.