

01 EXAMINATION UNDER OATH
02 OF
03 MARILYN CROSBY
04
05
06 Taken pursuant to Notice by Autumn D.
07 Furby-Pritt, a Court Reporter and
08 Notary Public in and for the State of
09 West Virginia, at Department of
10 Environmental Protection, 1101 George
11 Kostas Drive, Logan, West Virginia,
12 on Friday, March 24, 2006, at 10:06
13 a.m.

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01 A P P E A R A N C E S

02
03 WILLIAM J. FRANCCART, P.E.
04 Mine Safety and Health Administration
05 Pittsburgh Safety and Health
06 Technology Center
07 Ventilation Division
08 P.O. Box 18233
09 Cochrans Mill Road
10 Pittsburgh, PA 15236

11
12 WILLIAM TUCKER
13 West Virginia Office of Miners'
14 Health, Safety & Training
15 142 Industrial Drive
16 Oak Hill, WV 25901

17
18 DANIEL M. BARISH, ESQUIRE
19 U.S. Department of Labor
20 Office of the Regional Solicitor
21 1100 Wilson Boulevard
22 22nd Floor West
23 Arlington, VA 22209-2247

24
25

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01 A P P E A R A N C E S (cont.)
02
03 ALSO PRESENT:
04 BETH SPENCE

05 DENNIS BEITER
06 RONALD STAHLHUT
07 CHARLES POGUE
08 STEVE COX
09 MIKE FINNIE
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4

01	I N D E X	
02	INTRODUCTION	6 - 15
03	WITNESS: MARILYN CROSBY	
04	QUESTIONS	
05	By Mr. Francart	16 - 44
06	By Mr. Tucker	44 - 48

07	By Mr. Francart	48 - 58
08	By Mr. Tucker	58 - 59
09	By Mr. Francart	59 - 61
10	CONCLUSION	61 - 65
11	CERTIFICATE	66

12
13
14
15
16
17
18
19
20
21
22
23
24
25

5

01	EXHIBIT PAGE		
02			PAGE
03	NUMBER	DESCRIPTION	IDENTIFIED
04	A	Time line	19
05			
06			
07			
08			
09			

10
11
12
13
14
15
16
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18
19
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22
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01 P R O C E E D I N G S

02 -----

03 MR. FRANCCART:

04 My name is Bill
05 Francart, and I represent the
06 Mine Safety and Health
07 Administration, which is an
08 agency of the U.S. Department
09 of Labor. I'm a member of
10 MSHA's accident investigation
11 team that is charged with the

12 investigation of the accident
13 that occurred at the Aracoma
14 Coal Company, Incorporated,
15 Aracoma Alma Mine Number One,
16 on January 19th, 2006.

17 This is a joint
18 investigation we are
19 conducting with the State of
20 West Virginia. I'll be asking
21 the questions today for MSHA
22 in today's interview. Here
23 with me today are some other
24 members of MSHA's team and the
25 State's team. MSHA's team

7

01 includes various specialists
02 and members of the Solicitor's
03 Office. At this time, I'd
04 like each one of the members
05 of MSHA's team to identify
06 themselves for the record.

07 MR. BEITER:

08 My name is Denny
09 Beiter. I work for MSHA, Tech
10 Support Group, Ventilation
11 Division, out of Triadelphia,
12 West Virginia.

13 MR. STAHLHUT:

14 Ron Stahlhut, MSHA,

15 Vincennes, Indiana.

16 MR. POGUE:

17 Charlie Pogue, MSHA,

18 Hunker, Pennsylvania.

19 MR. FRAN CART:

20 And here, representing

21 the State of West Virginia,

22 Mr. Bill Tucker. And he has

23 an opening statement to give

24 you today, too.

25 MR. TUCKER:

8

01 The West Virginia

02 Office of Miners' Health,

03 Safety & Training is

04 conducting this interview

05 session jointly with MSHA, and

06 we are in agreement with the

07 procedures outlined by Mr.

08 Francart.

09 However, let me make it

10 clear that the Director

11 reserves the right, if

12 necessary, to call or subpoena

13 witnesses or require the

14 production of any record,

15 document, photograph or other

16 relevant materials necessary

17 to conduct this investigation.

18 Again, my name is Bill
19 Tucker. I work out of the Oak
20 Hill office for Miners'
21 Health, Safety & Training, and
22 appreciate you coming in
23 today.

24 MS. CROSBY:

25 No problem.

9

01 MR. COX:

02 Steve Cox, Region
03 Three, Danville.

04 MS. SPENCE:

05 I'm Beth Spence, with
06 the Governor's Office.

07 MR. FRANCCART:

08 And I work out of the
09 Pittsburgh, Pennsylvania
10 office, for the record. This
11 investigation is being
12 conducted by MSHA and the
13 State of West Virginia to
14 gather information to
15 determine the cause of the
16 accident and to help to
17 prevent this accident from
18 happening in the future.
19 These interviews are an

20 important part of the
21 investigation.

22 After the investigation
23 is completed, MSHA will issue
24 a written report detailing the
25 nature and causes of the

10

01 accident. MSHA accident
02 reports are made available to
03 the public in hope that
04 greater awareness about the
05 causes of the accidents can
06 reduce their occurrence in the
07 future. Information obtained
08 through witness interviews is
09 frequently included in these
10 reports. And your statement
11 may also be used in other
12 enforcement proceedings.

13 We thank you in advance
14 for your appearance here today
15 and appreciate your assistance
16 in the investigation. The
17 willingness of all
18 organizations to assist us is
19 critical in making the
20 nation's mines a safer place
21 to work.

22 This interview with
23 Marilyn Crosby is being
24 conducted under Section 103(a)
25 of the Federal Mine Safety &

11

01 Health Act of 1977 as part of
02 an investigation by the Mine
03 Safety and Health
04 Administration into the
05 conditions, events and
06 circumstances surrounding the
07 fatalities that occurred at
08 the Aracoma Alma Mine Number
09 One, located at Route 17
10 North, Bandmill Hollow Road,
11 Stollings, West Virginia,
12 25646.

13 This interview is being
14 conducted at the West Virginia
15 Department of Environmental
16 Protection, Division of Mining
17 & Reclamation, in Logan, West
18 Virginia. Today's date is
19 March 24th, and the current
20 time is approximately 10:12
21 a.m.

22 Ms. Crosby, can I call
23 you Marilyn?

24 MS. CROSBY:

25 Yes, that's fine.

12

01 MR. FRANCCART:

02 Thank you. The
03 interview will begin by asking
04 you a series of questions.
05 Feel free at any time to
06 clarify any statements you
07 make in response to the
08 questions. After we finish
09 the question, you will have an
10 opportunity to make a
11 statement of your own and
12 provide us with any other
13 information you believe may be
14 important to the
15 investigation.

16 You are permitted to
17 have a representative with you
18 during the interview, and you
19 may consult with your
20 representative at any time.
21 You may designate any person
22 to be your representative.
23 Following the questions by the
24 State and MSHA, we will give
25 your representative an

13

01 opportunity to ask questions
02 for the purposes of
03 clarification on areas already
04 discussed.

05 Your statement is
06 completely voluntary. You may
07 refuse to answer any question
08 or end the interview at any
09 time. If you don't understand
10 a question, let me know and
11 we'll try to rephrase that so
12 we can make it a little
13 clearer to understand. If you
14 need a break for any reason,
15 let us know and we'll take a
16 break.

17 You may make a
18 confidential statement, if
19 you'd rather do that, which we
20 will withhold from the public
21 to the extent allowed by law.
22 Should you desire to give a
23 confidential statement, you
24 should advise us before we
25 begin the interview so we can

14

01 reschedule the interview to
02 properly consider that
03 request. Do you wish to have

04 a confidential interview?

05 MS. CROSBY:

06 No.

07 MR. FRANCCART:

08 We do have a court

09 reporter here today who will

10 later be producing a written

11 transcript of the interview.

12 We ask that you state all your

13 answers verbally because she's

14 not able to record gestures,

15 such as nodding your head or

16 shaking your head no.

17 MS. CROSBY:

18 Okay.

19 MR. FRANCCART:

20 Neither the transcript

21 nor the contents will be

22 released to the public until

23 the MSHA investigation is

24 completed and the accident

25 report is released or required

15

01 by Court Order or if public

02 hearings are held on the

03 accident. If any part of your

04 statement is based not on your

05 own firsthand knowledge but on

06 information you've learned
07 from someone else, please let
08 us know that.

09 Please answer each
10 question as fully as you can,
11 including any information you
12 may have learned from someone
13 else. We may not ask the
14 right questions to know
15 exactly what you know, so if
16 we don't ask the right
17 question, please let us know.

18 MS. CROSBY:

19 Okay.

20 MR. FRANCCART:

21 Do you have any
22 questions about the manner in
23 which the interview will be
24 conducted?

25 MS. CROSBY:

16

01 No.

02 MR. FRANCCART:

03 At this time we'll ask
04 the court reporter to
05 administer the oath.

06 -----

07 MARILYN CROSBY, HAVING AFFIRMED,

08 TESTIFIED AS FOLLOWS:

09 -----

10 BY MR. FRANCCART:

11 Q. Could you please state your
12 full name, address and telephone
13 number for the record?

14 A. [REDACTED]

[REDACTED]

20 I'm lisping a little bit, but my
21 partial is not working real good.

22 Q. Okay. And could you spell
23 your last name for the record,
24 please?

25 A. C-R-O-S-B-Y.

17

01 Q. Thank you. Are you appearing
02 voluntarily at this interview?

03 A. Yes.

04 Q. Has anyone made any promises
05 to you for giving this statement or
06 offered you any rewards in exchange
07 for making your statement?

08 A. No.

09 Q. Has anyone threatened you or
10 warned you not to provide a

11 statement?

12 A. No.

13 Q. Do you understand that you may
14 refuse to answer any question or
15 terminate this interview at any time?

16 A. Yes, I do.

17 Q. Do you have a representative
18 with you?

19 A. No.

20 Q. Do you want to have a
21 representative with you?

22 A. No.

23 Q. Marilyn, can you tell us what
24 organization you work for?

25 A. Logan County 9-1-1.

18

01 Q. And what's your current
02 position at that organization?

03 A. I'm the director.

04 Q. Director. Is that the same
05 position you held on January 19th,
06 2006?

07 A. Yes, it is.

08 Q. And how long have you worked
09 in that position?

10 A. It will be ten years in May.

11 Q. We understand you have some
12 information for us this morning?

13 A. Yes. I have a time line from

14 the 9-1-1 tapes of the events that
15 occurred at Aracoma Coal.

16 Q. Okay.

17 A. And do you want me just to
18 start from the beginning or ---?

19 Q. Well, first we have to enter
20 that as an exhibit, if you don't
21 mind. Do you have more than one
22 copy?

23 A. Yeah, I have a couple.

24 Q. What we can do is just stamp
25 one as an exhibit and put that in the

19

01 record. And we have other copies
02 that we can refer to.

03 (Crosby Exhibit A
04 marked for
05 identification.)

06 A. And this actually --- I got
07 this from the tape itself, because I
08 wasn't there throughout this entire
09 call. I didn't go in until a little
10 bit later. I wasn't there, you know,
11 when the call started, so this has
12 been compiled from the 9-1-1 tapes.

13 BY MR. FRANCAERT:

14 Q. In addition to this, you also
15 have an audio tape for us?

16 A. Yes, I do.

17 Q. We'll have to enter that as an
18 exhibit also.

19 A. It's almost two and a half
20 hours.

21 Q. Is it just ---?

22 A. And that's the first three
23 hours. The last one, the fourth
24 hour, was just us getting the phone
25 to the site and everything. And I

20

01 had already worked on that like 16
02 hours. And I told somebody --- I
03 asked somebody yesterday, and they
04 said that was fine.

05 Q. Okay.

06 A. I think it was Anthony I
07 believe I talked to.

08 Q. Anthony Webb?

09 A. Yes.

10 Q. Is there just one copy or is
11 this two copies of the same thing?

12 A. No, that's --- that's one
13 copy. And then here's another copy
14 for the State. They had requested
15 that. So do you need that one now,
16 too?

17 Q. Well, you can give that to Mr.
18 Tucker now.

19 MR. TUCKER:

20 Thank you.

21 A. And I'm going to be perfectly
22 honest, this copy is better than that
23 one, because that one is a copy from
24 this one, okay. And if we had got
25 the request a little bit sooner, this

21

01 would have already still been on the
02 hard drive. But it wasn't, so I had
03 to make, you know, from tape to tape.
04 But that's why the quality is kind of
05 bad on that one. This one is really
06 good.

07 BY MR. FRANCAERT:

08 Q. That's okay.

09 A. If you've got more advanced
10 equipment for making copies, you
11 might be able to make a better copy
12 for him off of that one.

13 Q. We can do that.

14 A. Okay.

15 OFF RECORD DISCUSSION

16 BY MR. FRANCAERT:

17 Q. Marilyn, could you go ahead
18 and start explaining what this time
19 line means?

20 A. Okay. On January the 19th,

21 2006, Roger Bryant, he is EMS 101,
22 and he's also the Emergency Services
23 director, he radioed into the 9-1-1
24 center asking if we had received a
25 call about a mine fire. He was a

22

01 little bit broken. I'm not exactly
02 sure where he was at out in the
03 field. But we were having difficulty
04 hearing what he was trying to say.
05 But we finally got enough of it to
06 start looking for Aracoma Coal's
07 telephone number. And we --- well,
08 first we had told him we had not
09 received any call. One of my
10 dispatchers had been on since 3:00
11 and one had come on at 7:00, and
12 neither one of them had received a
13 call, you know, about a fire at the
14 Aracoma Mine. So we started looking
15 for their number. In the meantime,
16 we tried to call him on his cell
17 phone to make sure that we had heard
18 him right. And he said he had
19 received a call from the State
20 officer that there was a mine fire at
21 Aracoma Coal. While we were still on
22 the phone with him, we had found the
23 phone number. So one of my other

24 dispatchers called Aracoma Coal, and
25 as soon as we said this is 9-1-1 they

23

01 put us on hold, and we were on hold
02 for quite a while. And then Gary
03 came back to the phone and said that
04 there was a fire. They were
05 evaluating, I think that was his
06 words, a belt fire. And while one of
07 my dispatchers was talking to him,
08 then another call came in on the
09 9-1-1 track, and he clicked over and
10 it was Marty Allen. And I'm telling
11 you that from that's what they told
12 me later. I never did hear his name
13 on the tape. But they told me that
14 was Marty Allen that had called in.
15 And that came in at 2001. Now, on
16 the tape there's not going to be a
17 time stamp at 2001 for that because
18 it was continued from 9:59. You see
19 what I'm saying? He clicks over, so
20 it's going to be continued from that
21 time stamp. But when I was making a
22 copy of the tape, I looked at the
23 real time on there and it showed
24 2001.

25 Okay. He called in and was

01 asking for telephones. And we were
02 asking him what he needed it for, and
03 he was real hesitant about telling us
04 what was going on. And we asked was
05 anybody in there, and then all of a
06 sudden he says, well, just give me
07 the fire department, you know, and he
08 doesn't really want --- he asks like
09 he doesn't really want to even talk
10 to us. And my dispatcher says, well,
11 this is the fire department, you
12 know, we dispatch the fire
13 department. And he said, what ---
14 they said, what are you needing? He
15 said, we need telephones. And we
16 don't really have anything like that
17 except, you know, for our cell
18 phones. So we said, well, we've got
19 our cell phones. And then the EMS
20 guy that just happened to be over
21 there, he said, well, we have radios
22 we can bring in. He said, okay, that
23 sounds good. And we asked him about,
24 you know, was anybody in danger or
25 anything. They wouldn't --- he

01 really kept changing the subject.
02 And he said he needed to put us on

03 standby. And he asked for a fire
04 truck but said they didn't need an
05 ambulance. And then all of a sudden,
06 he kind of changed tune. He said,
07 well, we need all the help we can
08 get. So it was a little bit
09 confusing. It was actually like
10 trying to pull teeth to get
11 information out of him. And I don't
12 know if he thought we would release
13 it. And you know, my dispatchers are
14 trying not to do that. I think he
15 was just real hesitant about telling
16 us because he thought it might, you
17 know, get out there before they knew
18 --- had evaluated the situation.

19 Q. Do you know who Marty Allen
20 is?

21 A. No. I have no idea, to be
22 quite honest. I'm thinking he's an
23 employee of the coal mine because he
24 called in on a cell phone. And after
25 --- you know, after he hung up, we

26

01 tried to call him back several times
02 on the cell phone and didn't get an
03 answer for a few times. And then he
04 eventually called us back, I guess

05 not knowing who had tried to call
06 him, and he called us back. But
07 you'll see that down here, that you
08 know, we tried to call him back
09 several times to get more
10 information.

11 Q. Do you have a record of that
12 phone number, what it is?

13 A. It was on the thing and I did
14 not write it down. But I can get
15 that for you, yeah. It shows up ---
16 when we tried to call it back, it
17 shows up the numbers that we dialed.
18 I remember it was a 784 number, but I
19 don't know what it is off the top of
20 my head. But I can get that for you.

21 Q. Okay. If you can just
22 continue then.

23 A. Okay. We yelled back at 101,
24 who was Roger Bryant on the radio,
25 and told him that they had a belt

27

01 fire. And we went ahead and toned
02 the fire department to respond to the
03 mine. And you'll see there that the
04 fire department gets en route. They
05 learned the fire was inside the mine.
06 I think from that --- I probably
07 should have explained that a little

08 bit better. I don't know if that was
09 on the call or somebody hollered in
10 at us on that. But that will be on
11 the tape. But we eventually did ---
12 we first --- my dispatchers aren't
13 miners. You know, they're not real
14 familiar with it. They kind of --- I
15 think they kind of took for granted
16 that when they said it was a belt
17 fire, it was kind of out on the
18 outside. But we still went ahead and
19 did everything that we were supposed
20 to do. But then I think somebody
21 called in and said that, you know,
22 the belt goes through the mines. So
23 that's when we hollered at 101 and
24 told him that we had learned, you
25 know, that it was inside. At that

28

01 time, they weren't telling us if
02 anybody was missing. They eventually
03 did say two guys were in the mines,
04 but they did not say that they were
05 missing and unaccounted for. We just
06 kind of figured they were fighting
07 the fire.

08 Then everybody starts calling.
09 The State Police started inquiring.

10 We told them we didn't know a whole
11 lot. And since we did not know that
12 these guys were missing, at 2004, the
13 fire --- we had told the fire
14 department there was two guys in
15 there, and the fire department told
16 us to tell the mine office to get the
17 two miners out. Because you know,
18 again, we were taking for granted
19 they were just in there, you know,
20 trying to fight the fire.

21 And we tried to call Marty
22 Allen's cell phone back, but we got
23 no answer. And then the fire chief
24 got us, you know, getting the fire
25 coordinators. We paged them. Again,

29

01 we tried to call the Aracoma Mine on
02 the cell phone and there was no
03 contact. We were sending EMS
04 supervisors to the mine scene. We
05 called the mine office. At 2008 we
06 called the mine office. That was the
07 very first number that we had dialed.
08 And you all should have that number,
09 I'm assuming, because Anthony
10 recognized it the other day. And for
11 the first --- at 2008 was the first
12 time we were told the miners were

13 missing.

14 The fire department gets on
15 --- it's sort of on scene. They
16 didn't know exactly where to go, but
17 they get in the vicinity of the mines
18 at 2010, and you'll hear on the tape,
19 too, that he says, you know, I'm not
20 real sure where we need to go or
21 where we need to stage. But it was
22 right about 2010 when they get up
23 there.

24 And then the media starts
25 calling and then we start, you know,

30

01 sending HAZMAT. And any of that that
02 I've kind of fastly skipped over that
03 you need an answer ---.

04 Q. We'll go back. We have a few
05 questions I'm sure on some of these.

06 A. Okay. Yeah. And then all of
07 this is just we're getting people up
08 there. The Homeland Security
09 director from the Governor's Office
10 calls Jimmy --- I called him Jimmy
11 Gianato, but he says Jimmy Gennette
12 (phonetic) or something; doesn't he?
13 And he called and said he was on his
14 way, and he wanted to know if we had

15 any more information. And a Captain
16 Chambers from the State Police calls.
17 And at 2047 --- back on the first
18 page, though, I called and got, you
19 know, a briefing to see if I needed
20 to come in. Well, I had been talking
21 to Roger Bryant on the telephone and
22 saying, do I need to come in. I'm
23 figuring the media is going to start
24 calling because, you know, this was
25 right after Sago, and I knew we were

31

01 going to get some national news. So
02 at 2047 I call in and tell him that
03 I'm going to be there to start
04 handling the media.

05 At 2057 is when they start
06 requesting all the phones. And most
07 of that after that up until --- you
08 know, until the end of that tape is
09 where we're looking for gallons and
10 gallons of phones.

11 Q. That phone request, that came
12 from the fire chief and not the mine?

13 A. It came from the fire chief.

14 But I think the people relayed it
15 through him. From what I understand,
16 they were asking for the phone at the
17 mines, yeah. But you know, to get it

18 within our county, we have to get it
19 through a request of the fire chief.

20 Q. If we can go back to the first
21 page, ---

22 A. Okay.

23 Q. --- I have a couple questions
24 for you. When you called Aracoma
25 Coal you were put on hold, and that

32

01 was a rather long period of time. Do
02 you know how long that was?

03 A. It will be on there.

04 Q. It's on the tape?

05 A. Yeah, it's on the tape. Yeah.

06 Q. Okay. Do you know who you
07 talked to when you first called?

08 A. The guy's name was Gary. That
09 was what showed up on the tape, his
10 name was Gary.

11 Q. Did he say his last name?

12 A. No, he did not. And again,
13 they were very, very hesitant about
14 giving us any information. And I
15 listened to it, and my dispatchers
16 did good to just get this information
17 because they wanted us to, you know,
18 --- they said, well, just give me the
19 fire department's number. Just give

20 me the fire department's number
21 several times. They didn't want to
22 answer our questions. And there's
23 certain questions that we have to
24 answer --- get answered before we can
25 dispatch anybody.

33

01 Q. Is it typical for a mine to
02 call you if there's an accident,
03 something like this, at the mine?

04 A. Well, to be quite honest, we
05 haven't had one like this in quite a
06 while. But they call every day, you
07 know, for the smaller accidents. We
08 have usually a small mining accident,
09 at least three or four a week. But
10 this was a little bit out of the
11 ordinary.

12 Q. Do you remember if you've had
13 many calls from Aracoma concerning
14 accidents before?

15 A. Well, where I don't dispatch,
16 you know, I couldn't answer that, but
17 --- my dispatchers could, but not me.

18 Q. On one of your entries on the
19 second page, at 2046, it says,
20 Captain Chambers from DPS calls for
21 briefing. Did you mention that that
22 was the State Police?

23 A. That is the State Police, yes.
24 DPS stands for State Police, yeah,
25 Department of Public Safety.

34

01 Q. Do you know what time the
02 State Police was contacted? Or would
03 they have been contacted in some
04 other way other than calling through
05 your office?

06 A. They apparently were getting
07 some information before they talked
08 to us because they called us back
09 here at --- where did I have State
10 Police?

11 Q. 2004.

12 A. 2004, yeah, State Police
13 starts inquiring. They had called
14 us, and you'll hear that on the tape.
15 One of the dispatchers calls and
16 says, can you tell us what's going on
17 or something to that effect. So what
18 --- they apparently were getting
19 calls or they may have even just been
20 hearing us on the scanner, but they
21 were wanting some updates. And it's
22 my understanding that they were
23 dispatched up to the scene pretty
24 quickly, not through us. And again,

25 you know, I don't know that for sure,

35

01 but they were up there pretty

02 quickly.

03 Q. If you can go back to the very

04 first entry, 1956, do you know how

05 Roger Bryant learned about the mine

06 fire?

07 A. He told me that the State

08 office had called him. And I'm

09 thinking that it was Jimmy Gennette

10 or Jimmy Gianato, that's the same

11 person, but that's where I'm thinking

12 the call came from.

13 Q. And who is Roger Bryant?

14 A. He is the Emergency Services

15 director and he's also over EMS.

16 Q. So he's county-wide?

17 A. Yes.

18 Q. Just Logan County?

19 A. Just Logan County.

20 Q. On the entry at 1959 you have

21 an entry during your call at 20 'til

22 1:00 you received a call. Were these

23 two calls going on at the same time?

24 A. At the same --- well, my

25 dispatcher clicked from one to the

36

01 other. And that was the first call

02 at 2001 that we actually received a
03 call from the mines itself. We were
04 talking to them a couple minutes
05 before that, and they put us on hold.
06 And then he switched us over to this
07 call. And again, I'm telling --- you
08 know, Marty Allen, that's what they
09 told me his name was. And he calls
10 him Marty eventually --- I think it's
11 on another call. But that's the name
12 that I got from the other time line
13 because he did not mention who he
14 was.

15 Q. So this is kind of like a call
16 waiting thing you have?

17 A. It's different lines.
18 Different lines, yeah. Different
19 tracks, yeah. He just pushes one
20 button, you know. Yeah.

21 Q. Okay. And Marty Allen has a
22 cell phone at the mine, but you
23 called Gary on the hard line?

24 A. Right.

25 Q. Okay. How many people do you

37

01 have at the 9-1-1 offices as far as
02 dispatchers receiving calls?

03 A. On a daily basis? There's at

04 least two on each shift. When this
05 started happening, everything was
06 going on. This wasn't the only thing
07 that was going on. We had a fire and
08 a bunch of EMS calls. My assistant,
09 he went in. And then the guy
10 underneath him went in before I could
11 get there. But usually there's two
12 dispatchers on, at least two
13 dispatchers on.

14 Q. Did you get a lot of calls
15 from the media?

16 A. Oh, yes. And that would have
17 been like two more tapes, if I had
18 recorded all of them. I just
19 recorded enough to give you a taste
20 of what we were getting. But yes, we
21 did. And that's the main reason that
22 I went in, because I knew once they
23 got up there, if the State Police was
24 going to stop them, they were going
25 to head back to the 9-1-1 center to

38

01 try to get information. And they
02 kept calling and calling. And that's
03 kind of the job that I did that
04 night, was handling the media.

05 MR. FRANCAERT:

06 We see that one of our

07 other investigation team
08 members has entered the room.
09 If you'd like to introduce
10 yourself for the record.

11 ATTORNEY BARISH:

12 Hi. My name is Dan
13 Barish. I'm an attorney with
14 the Solicitor's Office,
15 representing MSHA. My office
16 is in Arlington, Virginia.

17 A. Okay. Marilyn Crosby, Logan
18 County 9-1-1.

19 ATTORNEY BARISH:

20 Nice to meet you.

21 A. You, too.

22 BY MR. FRANCCART:

23 Q. Okay. Marilyn, at 1959, the
24 call that you received from Marty
25 Allen when he requested telephones,

39

01 did he tell you what those telephones
02 were to be used for?

03 A. No. No, he did not that I can
04 remember. That's why we couldn't
05 really understand why he was
06 requesting telephones and he wasn't
07 at first requesting, you know, some
08 kind of help, you know. And I think

09 --- of course, again, I've listened
10 to this for like the 16 hours, and I
11 couldn't really remember where this
12 falls in here, but it's on the tape,
13 he may have said that they had a belt
14 fire. But when he said telephones,
15 we were like, well, you know, we
16 don't have that kind of equipment.
17 And then one of the EMS supervisors,
18 it wasn't Roger, but it was another
19 guy that was over there, said, well,
20 we have radios. Will that help you?
21 And he said, yes, that will help you
22 (sic). And then he said, well, what
23 else do you need? And he said, we
24 probably need a fire truck, but we
25 don't need an ambulance at this time.

40

01 And then, all of a sudden, he kind
02 of turns gears and he says, and we
03 need all the help we can get. I
04 remember --- I'm like, well, that was
05 really strange. He was real hesitant
06 and then all of a sudden he changes
07 gears.

08 Q. And that was during this call
09 at 1959 he changed gears?

10 A. Yeah. Well, his call started
11 at 2001, yeah.

12 Q. We haven't listened to the
13 tape. But from your impression of
14 the tape, did it seem like something
15 at the mine changed at that point?

16 A. No. I think maybe he realized
17 that we just wanted to help maybe,
18 you know, that we weren't going to
19 put this information out there, you
20 know. And I don't know, maybe we
21 were just a little bit more
22 convincing. I don't know. Another
23 guy had gotten on the phone and he
24 was with EMS, you know. He wasn't my
25 dispatcher. And maybe that's what

41

01 changed his manner. I'm not real
02 sure. But it didn't seem like, you
03 know, anybody was hollering at him,
04 saying something else had happened or
05 he had witnessed anything.

06 Q. At 2004, does the tape mention
07 who from the State placed calls?
08 Does it give their name?

09 A. No, it's a dispatcher. And
10 where my dispatchers know each other
11 --- you know, they know each other.
12 They knew who it was, yeah. And I
13 don't answer the phone, so I didn't

14 know who it was. But I can find out
15 if you need for me to.

16 Q. We can let you know if we do
17 need that information.

18 A. Okay. Do you know, besides
19 Marty Allen, was there anybody from
20 the mine that called 9-1-1 that
21 night?

22 A. Not that I heard within that
23 time period, no.

24 Q. As far as your times on the
25 record, how are those times

42

01 determined? Do you set that with
02 national ---?

03 A. As far as I know, it's
04 supposed to be national time, yes.
05 It's not really GPS, you know,
06 clicked in with that, but it is ---
07 yeah, we have it --- and then all of
08 our phones and everything are, you
09 know, the same. Now, when you get in
10 there and you listen to the tape,
11 it's going to give the time at the
12 beginning of the call. So those are
13 going to be off a little bit.

14 Because you know, if it's like
15 1959:59, you know, on the recorder
16 and, you know, he doesn't get

17 finished for a while and he gives
18 some radio time, you know, it's going
19 to be off a minute or so. But it's
20 going to be really, really close.

21 Q. Okay.

22 A. And also another thing I
23 wanted to tell you, too, which makes
24 this sound kind of --- like we're not
25 informed on there --- that my

43

01 dispatchers weren't informing each
02 other, some of these calls lasted,
03 you know, like for three or four
04 minutes when they were trying to get
05 this other --- so one of the
06 dispatchers may have known something,
07 but he's still on the phone taking
08 more information. The other
09 dispatcher, maybe down further, you
10 know, is given different information.
11 So it doesn't really coordinate. But
12 this other one may still be on the
13 phone and hasn't had a chance to tell
14 him, you know, that the miners were
15 missing or whatever. So it kind of
16 looks like --- I was listening to
17 that separately, and I thought, well,
18 he should have known this already.

19 And then I got to looking, and the
20 time --- this other guy was on the
21 phone a long time, hadn't had a
22 chance to tell him until he got on
23 the radio to tell the information.
24 So it looks like we're kind of off
25 sync there a little bit, but it's

44

01 because that they were on the phone
02 so long with whatever.

03 Q. As far as that time stamp
04 goes, is that something you have to
05 update occasionally or is that an
06 automatic system?

07 A. It's an automatic, yeah.

08 Anthony wanted the company --- the
09 name of the software, and it was
10 Dynamic Instruments was the name of
11 the software.

12 Q. Do you know if he gets that
13 time from the atomic clock in
14 Colorado or ---?

15 A. I'm not sure.

16 Q. We can find that out.

17 MR. FRANCAERT:

18 Bill, do you have some
19 questions?

20 MR. TUCKER:

21 Just a couple, Bill.

22 Thank you.

23 BY MR. TUCKER:

24 Q. On the second entry, at 1959,
25 you mentioned the State office.

45

01 A. Yes.

02 Q. Do you know which State office

03 ---

04 A. West Virginia ---.

05 Q. --- that you were referring
06 to?

07 A. And again, I think --- I don't
08 want to say for sure it was Jimmy
09 Gennette that Roger had talked to in
10 that State Homeland Security Office,
11 but I think that's who it was. But
12 on the telephone call itself, he said
13 the State office had called him. And
14 then later on it seems like Roger had
15 told me that it was Jimmy Gennette.

16 Q. Okay.

17 A. He's Homeland Security, but he
18 also handles all emergencies, not
19 just terrorism.

20 Q. Right. So the call you
21 received from Marty Allen, which you
22 said you wasn't sure if he was a
23 company representative or ---?

24 A. At that time --- yeah. At
25 that time, he's just really hesitant

46

01 to give us any information, yeah.

02 And you'll hear that.

03 Q. So his call --- okay. So that
04 information will be more clear on the
05 tape.

06 A. Uh-huh (yes). Yeah.

07 Q. You don't know if his call was
08 actually calling 9-1-1 to notify them
09 of a ---?

10 A. It was calling to ask for
11 telephones. That was the reason he
12 was calling.

13 Q. Okay. Not necessarily to
14 report a mine fire or an accident?

15 A. No. No.

16 Q. Okay. Do you know if anybody
17 was treated at the mine, any miners
18 were treated?

19 A. I saw on that time line, and
20 Roger may be able to answer this
21 better, that we had two miners that
22 were treated for emotional problems.
23 I did not hear that. Of course, I
24 don't think I got up to that time,
25 but I did not hear --- and again, it

47

01 may not have come over, you know, the
02 radio because they were already on
03 scene and they could have done that
04 without notifying us.

05 Q. Right. Okay. On the second
06 page, at the 2100 ---

07 A. Uh-huh (yes).

08 Q. --- 2100 on the time ---.

09 A. Yeah, I remember this. This
10 was one of the important parts.

11 Okay. Do you want me to explain
12 that?

13 Q. Yes, if you could explain
14 that.

15 A. Okay. EMS 101, that's Roger
16 Bryant again, you know, the Emergency
17 Services director. He just radios in
18 to get it on tape that at 2040 he had
19 offered the mines rescue crews and
20 services, you know, anything that
21 they could do, and the mine refused
22 them. And again, you know, I don't
23 --- you know, he just wanted it on a
24 recorded --- actually, he called that
25 in, I think. No, he yelled over the

48

01 radio. I'm right, he radioed it in.

02 And he said, he just wanted it on a

03 record that they refused help. And
04 then if you'll go down further ---
05 and I know this has kind of been a
06 sore spot for everybody, the fire
07 chief does the same thing.

08 Q. When he's referring to rescue
09 crews there, do you know if it's
10 firefighting crews or ambulance
11 crews?

12 A. It is --- from my
13 understanding, it is HAZMAT crews
14 that have, you know, the breathing
15 apparatus, you know, the outfits and
16 all of that. And that is in his
17 telephone call, yes. So that will be
18 explained a little bit more there.

19 Q. Okay.

20 MR. TUCKER:

21 That's all I have.

22 Thank you.

23 A. Uh-huh (yes).

24 BY MR. FRANCAERT:

25 Q. Marilyn, I watch TV a lot and

49

01 the crime shows and news, they all
02 have these video --- or audio clips
03 from 9-1-1 they play, ---

04 A. Right.

05 Q. --- the actual calls. How do

06 they get those from you? Is it the
07 same process we do?
08 A. It's really hard to get those
09 from me. Usually you have to have a
10 subpoena or a Court Order. That's
11 the State law now. We no longer fall
12 under Freedom of Information. Some
13 9-1-1 directors will just release it.
14 I --- and again, you know, I could
15 have requested a subpoena from you
16 guys, but I knew this was --- you
17 know, I was going to have to do it,
18 so I thought, you know, no use. But
19 I knew this was for a good cause, so
20 I went ahead and released it. But on
21 that, I had a news agency the same
22 day that Anthony and Eugene had asked
23 me for this that asked me for a copy
24 of it, and I told her, no, that this
25 was still under investigation and we

50

01 would not be releasing it. And that
02 was an agreement between myself and
03 Roger Bryant.

04 Q. We appreciate that.

05 A. Yes. She said, can I call
06 back later? And I said, well, you
07 can call back later. But I won't be

08 giving it to them.

09 Q. When you do release these
10 tapes, though, do you give usually an
11 audio tape like this or is there also
12 a digital recording?

13 A. That is what they get, yes.

14 Q. This is all you give them?

15 A. Uh-huh (yes).

16 Q. Is it possible --- you said
17 that this is on a hard drive. Is it
18 a computer system?

19 A. It is a computer system. And
20 it stays on the hard drive for about
21 three weeks, and then it backs up to
22 a little --- I'm not sure what the
23 tape is called, but one of the little
24 backup tapes for a computer. And
25 that's --- then we had to reload that

51

01 backup tape to bring this incident
02 back up, and then we made copies from
03 that. And that's the reason I had to
04 filter through like 16 hours. We had
05 like seven different channels open,
06 you know, for the frequencies, the
07 telephones and all that. So where
08 three hours is three hours real time,
09 you've got that times seven channels,
10 you know. And so that's why it took

11 me so long to filter through all of
12 this. But it's an order which you
13 all can understand. Not that I'm
14 saying, you know, you couldn't
15 understand it before, but it's a
16 better understanding order now. And
17 we took out all the stuff that you
18 didn't need, like the EMS calls and
19 all of that.

20 Q. As far as the quality of the
21 tape, if we find that the quality is
22 what we need, is it possible to get a
23 digital copy of that tape?

24 A. I don't think --- I would have
25 to call the guy that, you know, we

52

01 bought the equipment from and see if
02 there's some way we could do that
03 because I'm not really sure, to be
04 quite honest. That one is a really
05 good copy, and I don't think you're
06 going to have any problems with it.
07 If there's something that you have a
08 question about, you're welcome to
09 come over there and listen to it, you
10 know, right off the tape, you know,
11 off the computer. I have no problem
12 with that.

13 Q. If it would be possible or if
14 there is a need that arises later to
15 have us come in and maybe make a
16 digital copy, would that be ---?
17 A. Yeah, that's fine. If you
18 have the equipment to do that, I have
19 no problem.
20 Q. We'll have to check into our
21 capabilities on that, if it's needed.
22 When you said in the log here that I
23 guess Mr. Bryant called to say --- or
24 was it the fire chief?
25 A. Both of them had radioed in

53

01 and just wanted it on the record that
02 they had offered assistance and it
03 was refused by the mining company.
04 Q. What did they mean by refused?
05 A. You may have to ask them that.
06 That was his words, the offer of the
07 rescue crews and services had been
08 refused.
09 Q. Okay. We'll talk to them
10 about that. What were the other
11 types of calls that you mentioned
12 that you took out of the tapes?
13 A. Okay. There was medical
14 calls. There were fire calls. There
15 were police calls. We had a very

16 busy night that night, so yeah, that
17 --- but everything that had to do
18 with this call is on there, yeah.

19 Q. So anything that wasn't
20 related ---?

21 A. Except for some of the media
22 calls. And then there was a little
23 bit of traffic that they were just
24 kind of marking en route. And it was
25 so broken up, that I really couldn't

54

01 even understand it, so --- but
02 everything important is on there up
03 until that --- ten o'clock that
04 night.

05 Q. Did you get to talk to
06 Anderson Cooper?

07 A. Yes, I did, and it's on there.
08 Yes. I was --- you know, I had
09 handled the media all evening, and
10 then he calls and then I'm like ---
11 you know, I'm so tired and stressed
12 because we had had a --- already had
13 a hard day that day. And he calls in
14 and they put me on hold and I'm like,
15 okay, God, you got to help me through
16 this.

17 MR. FRANCAERT:

18 Do you have anything

19 else, Bill?

20 MR. TUCKER:

21 No. Thank you.

22 BY MR. FRANCAERT:

23 Q. Were you at the 9-1-1 center

24 when the first calls came in?

25 A. No, I was not. I did not get

55

01 there --- I think it was around ---

02 let me see. It shows on here when I

03 called to say that I was coming in.

04 Q. I saw that on there.

05 A. 2047. And it usually takes me

06 about 20 minutes to get there,

07 so ---.

08 Q. So sometime after nine o'clock

09 that night you were there?

10 A. Yeah. Uh-huh (yes).

11 Q. Okay. Who called you to tell

12 you what was going on or did you ---?

13 A. My assistant called me on his

14 cell phone. It would not be on these

15 tapes, but he called me on his cell

16 phone. He said, are you listening to

17 the scanner. And I never listen to

18 the scanner, to be quite honest. I

19 have enough of it during the day.

20 And he said that we have a mine fire,

21 and my heart just fell. But yeah, he
22 called me. And I said, well, keep me
23 updated. I'm going to go ahead and
24 hop in the tub real fast and just
25 keep me updated, and you know, if you

56

01 need for me to come in, I will. In
02 the meantime, I was talking back and
03 forth to Roger on the cell phones. I
04 was saying, do you think I need to go
05 in? No, we don't know what we've got
06 yet or nothing. And then when they
07 told me that the miners were missing,
08 I thought I need to get in there
09 because I knew we were going to be
10 getting the media.

11 Q. So your first conversation
12 with the company, they never said
13 anything about miners missing?

14 A. No. And that's why when the
15 fire department says, well, tell them
16 to get those two men out of there, it
17 sounds really stupid, but it's
18 because we were never informed that
19 they were missing.

20 You will also hear on there,
21 too, somebody calls in and says, you
22 know, that belt goes out to the other

23 side of the mountain. And he
24 volunteered to go around to look to
25 see if maybe the miners had gotten

57

01 out that way. So you'll be hearing
02 that on there also. And they had
03 called me at home and told me that,
04 too, and I'm like, oh, man, I really
05 hope, you know, that they've found
06 their way to the other side, but all
07 that is on there, too.

08 Q. They mentioned that they would
09 go around --- did they want to go
10 into the mine or did they just want
11 to go ---?

12 A. They wanted to go what is ---
13 again, I'm not mine savvy. I don't
14 know what all --- is it the face or
15 --- I know it's the opening, the
16 portal, ---

17 Q. The portal.

18 A. --- on the other side. And he
19 said he would go there to kind of see
20 if anybody had came out to the other
21 side --- through the other side,
22 where the belt comes out on the other
23 side of the mountain.

24 Q. And they refused that help?

25 A. No. We didn't really ask them

01 on that. We just sent --- a member
02 of the fire department volunteered,
03 so we told him to go over there. He
04 actually worked at that mine. But he
05 was at his home, and he said, I'll
06 ride down there where I work there.
07 I'm familiar with that. And I'll
08 just go and make sure they haven't
09 come out the other side. So we got
10 an approval from the fire chief to do
11 that --- to tell him to do that, and
12 he went ahead and did that.

13 Q. Is there a written transcript
14 made of the tapes?

15 A. No, there is not.

16 Q. We can have that done if we
17 need that. And do you know what time
18 your assistant called you?

19 A. It was sometime after eight
20 o'clock. I cannot be --- no.

21 Q. Okay.

22 BY MR. TUCKER:

23 Q. The gentleman you mentioned
24 that works at the mine that's on your
25 mine rescue or your ---

01 A. Fire department.

02 Q. --- fire department, ---

03 A. Uh-huh (yes).

04 Q. --- do you know his name?

05 A. No. But I think I put his
06 unit number down there. And I can
07 find out who it is for you if you
08 need for me to.

09 Q. We'd appreciate that.

10 A. Okay.

11 BY MR. FRANCAERT:

12 Q. Marilyn, is there anything
13 else you think we might need to know
14 today?

15 A. No, not that I can think of.
16 If you need anything else, you can
17 give me a call. If you have any more
18 questions, I'd be, you know, glad to
19 assist you in this.

20 Q. We will be listening to the
21 tapes, and if we have any questions
22 we'll probably give you a call back.

23 A. So the two things I need to
24 find out then is the fire department
25 member's name and then the telephone

60

01 number of the cell phone?

02 Q. Yeah.

03 A. Okay.

04 Q. The cell phone number for,

05 what was his name, Marty Allen.

06 A. Now, do you want me to call

07 Anthony or just call here, or who do

08 you want me to call with that

09 information?

10 Q. In fact, we're going to give

11 you a couple of cards. We'll give

12 them to you now, though.

13 A. Okay.

14 Q. Mr. Murray or Mr. Webb, either

15 one.

16 A. Okay.

17 Q. Anthony Webb is his assistant.

18 And he probably would be your best

19 bet to call.

20 A. Okay. Okay.

21 Q. So if you could do that, that

22 would be a great help.

23 A. Okay.

24 Q. Anything else?

25 A. No, that I was --- except I

61

01 was so proud of my people. They did

02 such a good job. And I didn't really

03 realize what a good job they did

04 until after I listened to the tapes,

05 so ---.

06 Q. 9-1-1 centers are something we

07 take for granted. We don't really
08 appreciate them until we need them.
09 A. Yeah. So I made every one of
10 them aware. I was kidding one of my
11 dispatchers and I told him, I said, I
12 have listened to your voice for 16
13 hours. I am about to go crazy. He
14 said, well, I'm sorry. Didn't I do a
15 good job? I said, no, you did a
16 really good job.

17 MR. FRANCCART:

18 Just for the record,
19 we're not going to make the
20 tapes themselves an exhibit.
21 We're going to have a
22 transcript made to put that
23 into our administrative
24 record.

25 A. Okay.

62

01 MR. FRANCCART:

02 Marilyn, we do
03 appreciate you coming in here
04 today to answer all our
05 questions and sharing the
06 information you know about
07 this accident, and your
08 cooperation is very important
09 to us as we work to find out

10 how this all unfolded that
11 night.

12 We ask that you not
13 discuss your interview today
14 with anyone who may have
15 already been interviewed or
16 may be asked to give a
17 statement in the future.

18 A. Okay.

19 MR. FRANCCART:

20 That will ensure that
21 we obtain everyone's
22 independent memory of events
23 and nothing leaks out that
24 shouldn't be. After
25 questioning other witnesses

63

01 and, like I said, listening to
02 the tapes and obtaining
03 additional information, we may
04 ask you some other questions.

05 A. That's fine. And if you need
06 further copies, you know, on down in
07 that time line, you know, that I
08 didn't make a copy of, just give me a
09 call.

10 MR. FRANCCART:

11 Like I said, if at some

12 later point you have more
13 information besides the two
14 items that we've asked for,
15 you can call Mr. Murray ---

16 A. Okay.

17 MR. FRANCCART:

18 --- or Mr. Webb. And
19 I've been told we have one
20 more member of our accident
21 team enter the room, and if he
22 could identify himself.

23 MR. FINNIE:

24 My name is Mike Finnie.
25 I'm with MSHA, from

64

01 Madisonville, Kentucky.

02 A. Okay. Nice to meet you.

03 MR. FINNIE:

04 You, too.

05 MR. FRANCCART:

06 The Mine Act does
07 provide certain protection for
08 individuals who participate in
09 accident investigations. And
10 if at any time you think
11 you've been treated unfairly
12 because of your assistance
13 here today, please let Mr.
14 Webb or Mr. Murray know.

15 A. Okay.

16 MR. FRANCCART:

17 And Bill, do you have a
18 closing statement also?

19 MR. TUCKER:

20 On behalf of Miners'
21 Health, Safety & Training, I,
22 too, would like to thank you
23 for coming in today. Here's a
24 card for C.A. Phillips. He's
25 our deputy director out of our

65

01 Charleston office. And when
02 you get that additional
03 information, if you could also
04 let him know, I'd appreciate
05 it.

06 A. I sure will. I sure will.

07 MR. TUCKER:

08 Thank you.

09 * * * * *

10 EXAMINATION CONCLUDED AT 10:49 A.M.

11 * * * * *

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