

1 MR. PENEGUY: State calls robbin
2 Guidry, G-U-I-D-R-Y.

3 ROBIN GUIDRY,
4 having been first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 Q. (MR. PENEGUY) Would you please introduce
7 yourself to the jury?

8 A. Yes. My name is Robin Guidry. That's
9 G-U-I-D-R-Y. I am the DNA technical leader with
10 Houston Forensic Science center DNA laboratory.

11 Q. Where is the laboratory located?

12 A. The laboratory is located within H.P.D.
13 headquarters. About a couple of weeks ago we
14 transitioned from being the Houston Police Department
15 Crime Laboratory to the Houston Forensic Science
16 Center.

17 Q. Can you tell us how long you've worked
18 there?

19 A. I've been with the department about five
20 and a half years.

21 Q. Can you tell us kind of what are some of
22 your job duties and responsibilities are?

23 A. Sure. I'm a DNA analyst which means I am
24 qualified to process evidence, forensic evidence for
25 DNA purposes. But as a supervisor, I don't do as

1 much casework anymore. I manage -- I'm over 34
2 individuals. I do some casework, but the majority of
3 the time I'm managing folks or I'm also responsible
4 for the technical goings on in the laboratory. So,
5 writing protocol, that sort of thing.

6 Q. I want to talk to you about some of your
7 training and experience to become a DNA analyst. Can
8 you tell us about your educational background?

9 A. Sure. I have a bachelor of science degree
10 in biology from Loyola University in New Orleans. I
11 also have a master of science degree from the
12 University of Florida. The degree is in forensic DNA
13 and serology. Because we are an accredited
14 laboratory, DNA analysts have to have specific course
15 requirements as well as degree requirements. So
16 within those two degrees I also have specific
17 coursework in biochemistry, molecular biology,
18 genetics, and statistics.

19 Q. You mentioned that your laboratory is
20 accredited. What does that term mean?

21 A. To be an accredited laboratory, an outside
22 agency will come into our laboratory to insure that
23 our policies and procedures are compliant with
24 national standards and guidelines. So they make sure
25 our policy is good and compliant. But then they come

1 into the laboratory to see that we actually follow
2 our policy, that we do what we say we're doing. In
3 addition to checking policy, they're also making sure
4 the lab is secure and that we secure evidence
5 properly and that people have the right academic
6 credentials. They go through transcripts. They
7 interview analysts. It's a very lengthy process to
8 help insure that the quality of the work is accurate
9 and reliable.

10 Q. And are there quality controls?

11 A. There are a multitude of quality control
12 measures in a DNA laboratory. We have many measures
13 in place to help prevent contamination. We have many
14 measures in place to insure the accuracy of our
15 results. We also have mechanisms in place to detect
16 contamination should it occur. Contamination is a
17 concern with DNA. Technology is very, very
18 sensitive. So we want to be competent that the
19 results we report truly came from that sample and
20 were not introduced within the laboratory.

21 Q. You talked with us about working with the
22 lab and receiving additional training. Can you tell
23 us how you stay current in your training on DNA?

24 A. Once an analyst is qualified to be an
25 analyst, they're deemed competent. They must

1 participate in continuing education. That is an
2 accreditation requirement. So, at least eight hours
3 a year each DNA analyst will go generally attend an
4 out-of-state conference or have some other sort of
5 training.

6 Q. And do you maintain or keep up on your
7 education by staying current on DNA topics in the
8 scientific community?

9 A. Yes. In addition to the continuing
10 education, which I'm very fortunate to attend a fair
11 amount of, analysts are also required to perform what
12 is called a literature review. So, we on a monthly
13 basis read scientific articles. Again, we want to
14 insure that the laboratory stays up with current
15 trainings within the community.

16 Q. As a certified DNA analyst in Harris
17 County, do you perform DNA analyses and comparisons?

18 A. Yes, I do.

19 Q. During your career, have you performed many
20 DNA comparisons?

21 A. Yes.

22 Q. Have you testified in court before as an
23 expert in DNA analysis and comparisons?

24 A. Yes, I have.

25 Q. On few or many occasions?

1 A. I would say many. Approximately 80 times.

2 Q. I want to talk to you about DNA testing in
3 regards to this case. Did you conduct DNA testing in
4 reference to HPD Offense Report Number 072670412?

5 A. Yes, I did.

6 Q. And was evidence in this case maintained
7 and managed by your laboratory?

8 A. Yes. May I refer to my notes?

9 Q. Certainly.

10 A. We maintained it. We also had -- some
11 samples were outsourced to another accredited DNA
12 laboratory. And then evidence was returned to my
13 laboratory where it was maintained and secured.

14 Q. Okay. Ultimately when we're talking about
15 outsourcing evidence, is it sometimes -- for
16 instance, a rape kit where something might be
17 outsourced to another lab.

18 A. Yes.

19 Q. In this case where were some items
20 submitted?

21 A. The items were submitted to a laboratory in
22 Salt Lake City called Sorenson Forensics.

23 Q. Is that a laboratory you're familiar with?

24 A. Yes.

25 Q. How?

1 A. A couple of ways. Before I was with the
2 Houston Police Department Crime Laboratory, I worked
3 for a laboratory in Houston, a private laboratory
4 called Identigene. Identigene was acquired by
5 Sorenson Forensics. That was in 2007. And I opted
6 not to relocate to Salt Lake City. So that was my
7 initial interaction with the lab.

8 But because of the outsourcing, we are
9 required to insure the quality of the work. So I
10 have done site visits to this laboratory. I have
11 reviewed their protocol. So I'm very familiar with
12 the work they do and the quality of the work they do.

13 Q. Did some of the evidence that was submitted
14 and subsequently returned pursuant to this
15 investigation, this rape kit, also get tested at the
16 HPD facility where you work?

17 A. Yes.

18 Q. Did you personally conduct a analysis in
19 regards to items of DNA in this case?

20 A. Yes, I did.

21 Q. Let's kind of go through the whole thing
22 really quick. When we talk about DNA, what is DNA?

23 A. DNA is the information contained in any
24 cell in your body that has a nucleus. The nucleus is
25 sort of the brain of the cell. Any cell that has a

1 nucleus has DNA material. This information contained
2 in this DNA material tells that cell how to function
3 and behave. Now, as humans we receive half of our
4 DNA from our biological mother and half from our
5 biological father. Our DNA remains constant
6 throughout our entire life. And the same information
7 is in every single cell. So what that means is the
8 DNA in my blood cells would be the same as the DNA in
9 my hair cells.

10 Forensically we're interested in those
11 regions of DNA that vary from person to person. As
12 humans, most of our DNA is the exact same. We all
13 have two arms, two legs, a head. But there are
14 regions that vary. So that's what we look at.
15 Because we know there are certain regions that are
16 going to vary from person to person. So we can look
17 at those regions and compare evidence samples. So,
18 for example, evidence from a crime scene to a known
19 source of DNA. If the information is consistent, we
20 know that that individual could have contributed that
21 DNA. If the information is not consistent between
22 the samples, we know that person did not contribute
23 that DNA profile.

24 Q. And with the exception of identical twins,
25 is DNA unique from person to person?

1 A. It is. Exactly. With the exception of
2 identical twins everyone's DNA profile will be
3 unique.

4 Q. Are there methods and processes available
5 where you can look at an item of evidence and obtain
6 someone's DNA?

7 A. Yes. The DNA process very simply is
8 basically four steps. The first step is DNA
9 extraction where we're trying to capture the DNA,
10 recover the DNA from the material, whether it's a
11 swab from a crime scene or a swatch of clothing. We
12 want to separate the DNA from the cellular components
13 and from that substrate, that T-shirt or the cotton
14 swab. And so at the end of the extraction process,
15 our goal is to have very purified DNA.

16 We next then amplify the DNA. We use
17 a technique we all refer to as PCR. It stands for
18 polymerase chain reaction. This is essentially what
19 our cells do naturally when they double as we grow.
20 But in our laboratory, instead of making one copy, we
21 make millions of copies.

22 Q. Why do you try to amplify DNA?

23 A. Well, DNA is very small. In order for us
24 to read it or interpret it, we have to make lots and
25 lots of copies. To give you some perspective, there

1 are about three billion units of DNA within every one
2 of your cells. So a cell you can't even visualize
3 with the naked eye, DNA is so small that there are
4 three billion of them within each of your cells.

5 So we make copies of that DNA. But
6 again we're only interested in those regions that
7 vary. So we don't copy all the DNA. We just look at
8 a few regions. In my laboratory we examine 16
9 different locations. So once we amplify the DNA,
10 we've made all those copies, we load the DNA onto
11 a -- it's called a genetic analyzer. This instrument
12 will separate the fragments and basically provide
13 data that we can then interpret as individuals. And
14 so I apply analysis software to that data, if there
15 was enough DNA present. Sometimes there is not
16 enough DNA present or it's degraded or somehow
17 compromised, I might not get a DNA profile. But if I
18 get one on an evidence sample, I can then compare it
19 to a reference sample and determine if it's from the
20 same origin.

21 Q. So when we're talking about obtaining a DNA
22 profile, when you do obtain a DNA profile, is it
23 possible for you to attempt to analyze that and
24 compare it to a known source?

25 A. Yes.

1 Q. You talked about 16 different locations
2 that are -- or regions. Did you guys just come up
3 with the regions that you'd look at?

4 A. We did not. Within those 16 locations are
5 what we call the 13 core CODIS loci. A locus or a
6 loci is basically a location of DNA. Every forensic
7 laboratory in the United States looks at the exact
8 same 13 locations. We happen to have a kit that
9 looks at two additional locations plus amelogenin,
10 which is a sex determ marker. So I can look at a
11 profile and tell if it's male or female. But those
12 core 13, every laboratory within the United States
13 also examines those regions.

14 Q. Did you and HPD's laboratory analyze a rape
15 kit in Case Number 072670412?

16 A. Yes, we did.

17 Q. And kind of describe it. Did you analyze
18 rape kits before?

19 A. Yes, I have.

20 Q. Can you kind of tell the jury what a rape
21 kit is?

22 A. Sure. When an individual alleges to have
23 been sexually assaulted, oftentimes they are brought
24 to a hospital where evidence can be collected,
25 biological evidence can be collected. So what a

1 sexual assault kit is is basically a kit about the
2 size of a shoe box that contains several envelopes
3 and swabs for the sexual assault nurse examiner or
4 other hospital personnel to use to collect evidence.

5 So the standard items would be swabs
6 for vaginal collection or oral collection, anal
7 collection. The kit might also contain sort of
8 miscellaneous envelopes so that they can collect
9 swabs from the stomach, something like that.

10 The kit also will always -- or I
11 should say routinely -- attempt to collect known DNA
12 from the individual. So either saliva swabs we could
13 use as their known DNA, or they used to more often
14 collect whole blood from an individual. There is
15 also the possibility of collecting pulled hair,
16 pulled head hair as well as combed head hair and then
17 pulled pubic hair as well as combed pubic hair.

18 And so essentially the kit is just a
19 bunch of envelopes that are available for testing the
20 various regions.

21 MR. PENEGUY: Judge, may I approach
22 the witness?

23 THE COURT: You may.

24 Q. (BY MR. PENEGUY) Showing you what has been
25 admitted into evidence as State's Exhibit Number 121;

1 ask you if you recognize this item.

2 A. Yes, I do.

3 Q. Prior to testifying today, did you have an
4 opportunity to open this envelope with me and go
5 through some of the evidence that is contained inside
6 it?

7 A. Yes, I did.

8 Q. And is this State's Exhibit Number 121 the
9 sexual assault kit or rape kit you guys analyzed in
10 regards to this case number?

11 A. Yes, it is.

12 Q. What is contained inside State's Exhibit
13 Number 121? Just generally, what's contained inside
14 State's 121?

15 A. Well, there are envelopes that contain
16 vaginal swabs, labia minora swabs, swabs of a
17 right -- or excuse me -- a swab of a right hand, a
18 left hand swab, known saliva swabs from Patricia
19 Moore, head hair combings, pubic hair comings,
20 panties, dental floss, and oral swabs.

21 Q. Okay. And was State's Exhibit Number 121
22 and the items contained inside of it, were those
23 tested for DNA and screened for DNA -- or screened
24 for DNA at your lab?

25 A. Well, they are screened for the presence of

1 certain biological material. So yes, they were
2 screened for seminal fluid. And then the positive
3 items -- if an item is found positive for seminal
4 fluid or blood or whatever we're looking for, it
5 would then go on to the DNA process.

6 Q. And did that happen to several items in
7 this case?

8 A. Yes.

9 Q. Okay. So real quick, when you're screening
10 on this case you're talking about seminal fluids,
11 what are seminal fluids?

12 A. Seminal fluid is a product of an
13 ejaculation. It's the fluid that comes out of a
14 penis that contains the sperm cell. So what we're
15 interested in is actually the sperm cell that
16 contains the DNA. But the fluid that the sperm cell
17 is transported in is the seminal fluid.

18 Q. Does all seminal fluid contain sperm?

19 A. No.

20 Q. Why not?

21 A. Well, depending on the age of the
22 individual -- I'm not a medical doctor, but there is
23 an age at which someone can produce sperm cells. But
24 as adults, we can see seminal fluid without sperm if
25 the male is vasectomized, for example, or if there's

1 another medical condition that would preclude the
2 production of sperm.

3 Q. Sometimes do you have enough semen to get
4 sperm and sometimes you don't?

5 A. Yes.

6 Q. If you have a small amount of semen, is it
7 possible it doesn't contain any sperm cells?

8 A. Yes.

9 Q. When we're talking about this case, was
10 there -- just in regards to all of the evidence, was
11 there a lot of semen present or detected?

12 A. There was not a lot of semen detected.

13 Q. Okay. Could that potentially be consistent
14 with someone not actually ejaculating inside of a
15 female's body where some of this evidence was
16 collected?

17 A. Yes, that's a possibility.

18 Q. On the prescreen here, did you guys
19 obtain -- or can you tell us where you detected some
20 amounts of semen?

21 A. Sure. Semen was detected on the vaginal
22 swabs, the labia minora swabs, and the panties, but
23 sperm were not observed. So we just detected that
24 fluid, not the sperm cell itself.

25 Q. Okay. Do you guys assign unique numbers to

1 items of evidence throughout the course of your
2 analysis?

3 A. We do. The kit was itemized at the Houston
4 Police Department property room as Item Number 3.
5 Every component within that kit will receive a unique
6 sub item. So, for example, the vaginal swabs are
7 Item 3.1.

8 Q. Okay. And what is Item 3.2?

9 A. 3.2 will be the labia minora swabs.

10 Q. Okay. So Items 3.1 and 3.2, are those
11 locations where you detected some amount of semen?

12 A. Yes.

13 Q. I'm going to show you what has been marked
14 for identification purposes from within State's
15 Exhibit Number 121, State's 122 and 123. What's the
16 marking, what's the notation on this item?

17 A. This is the envelope that contains the
18 vaginal swabs and the labia minora swabs.

19 Q. Okay. Does it contain unique markings from
20 your lab?

21 A. It does. In fact, it has the unique
22 incident number which is 072670412. It also has on
23 it written Item 3.1 and 3.2.

24 Q. Okay. Let's talk about what was listed as
25 Item 3.4.

1 A. 3.4 was the right hand swab.

2 Q. Okay. And what was Item 3.5?

3 A. The left -- or let me correct myself. It
4 says R hand swab. 3.5 is L hand swab.

5 Q. And are those contained in what's been --
6 the envelope that's been marked State's Exhibit 124
7 and State's Exhibit 125?

8 A. Yes, they are. This envelope is --
9 handwritten on it is R hand and L hand. My analyst
10 in the laboratory wrote on it Item 3.4 and 3.5. And
11 it also has the unique incident number sticker
12 affixed to it.

13 Q. Were you also able to label an item -- or
14 was there an item that was labeled 3.9?

15 A. Yes, there was.

16 Q. What was that item?

17 A. The panties.

18 Q. Okay. Is that found in what has been
19 marked inside of State's Exhibit Number 121, Item 16?

20 A. Yes, it is. It's a paper bag that is
21 labeled undergarments. On it is written Item 3.9.
22 It also has that unique incident number associated
23 with this case as well as State's Exhibit 126.

24 Q. Showing you what's been previously marked
25 State's Exhibit Number 127. Are you familiar with

1 that item?

2 A. Yes, I am.

3 Q. What is that?

4 A. This is a photograph from the laboratory
5 notes, the panties that were contained within that
6 package. It has the markings on it of results of the
7 screening of the detection of semen.

8 Q. Okay. Is that part of your laboratory
9 file?

10 A. Yes, it is.

11 Q. Okay. And is that something, this type of
12 item, is that an item made in the regular ordinary
13 course of business for your laboratory?

14 A. Yes, it is.

15 Q. And is it made by someone who has knowledge
16 of specifically the markings that are contained on
17 there?

18 A. Yes, it was.

19 Q. And was it made at the time of this item
20 being screened?

21 A. Yes, it was.

22 Q. And is it something that's kept in the
23 regular course of business for your records?

24 A. It is.

25 Q. Are you somebody who has personal custody

1 of the laboratory file in this case?

2 A. I am.

3 Q. Is this a true and accurate copy of that,
4 with the exception of the State's marker?

5 A. It appears to be identical with one
6 exception. It looks like a portion of a date was
7 partly cut off, but otherwise it looks like the exact
8 same.

9 Q. And is that a date in the bottom right
10 corner of State's Exhibit 127?

11 A. Yes, it is.

12 Q. And is that date just kind of cut off when
13 the Xerox -- does it appear to be cut off when the
14 Xerox was being made?

15 A. That would make sense.

16 MR. PENEGUY: Judge, State's Exhibit
17 Number 121 and its contents are already in evidence.
18 Specifically we've marked a couple of items, and we
19 also offer State's Exhibit Number 127.

20 MR. SCOTT: We have no objection.

21 THE COURT: 127 is admitted.

22 Q. (MR. PENEGUY) Let's get technical. There
23 are -- inside of State's Exhibit Number 121, are
24 there other items of evidence that are DNA swabs?

25 A. There are.

1 Q. And are those things that were taken during
2 the course of the sexual assault examination?

3 A. They would have been collected by the nurse
4 examiner, yes.

5 Q. That's the nurse examiner whose name
6 appears on the outside of the envelopes; is that
7 correct?

8 A. I would assume so, but I have no firsthand
9 knowledge.

10 Q. Can you tell us on these items that are
11 contained in here what appears to be the name signed
12 as the individual who collected the items?

13 A. It's very messy. A. Sappington.

14 Q. Okay.

15 A. Something like that.

16 Q. Are all of them listed as A. Sappington?

17 A. That same signature appears on all of them,
18 yes.

19 Q. So they appear to have all been collected
20 by the same person; is that correct?

21 A. Correct.

22 Q. Okay. I'm looking inside this. Of the
23 swabs and the things that are originally marked as
24 State's Exhibit Number 122, 123, 124, 125, and 126,
25 is there also additional little packages of evidence

1 that show portions of the swabs taken in this case?

2 A. Yes. Also within the kit are three slide
3 holders and a small coin envelope. These would have
4 been generated within the laboratory. In each of
5 these slide holders is a glass slide that was used to
6 do the microscopic examination for spermatozoa.
7 There's a slide labeled 3.1.1, which is a portion of
8 the vaginal swab; 3.9.1, which is a portion of the
9 panties; and looks like 3.1, 3.2, and 3.3, which
10 would be the vaginal swabs, labia minora swabs, and
11 anal swabs. There is also the coin envelope that is
12 a stain from the panties. It is routine for us to
13 not consume all of the evidence. So what our
14 screener would have done is taken a cutting of the
15 panty area that was positive for semen and then a
16 portion of that would go on to DNA analysis. So the
17 rest of it is available for testing if needed.

18 Q. And is that what's taking place in that
19 process? Is that what's shown in State's Exhibit
20 127?

21 A. Yes. You can see --

22 Q. I'm going to publish it.

23 MR. PENEGUY: Judge, may I publish
24 127?

25 THE COURT: You may.

1 Q. (MR. PENEKUY) Now, this is going to be a
2 little bit hard to read, but let's just start with
3 the top. This is 127. In the top right corner are
4 there some unique markings that help identify this
5 piece of paper?

6 A. Yes. So each piece of paper has to have
7 the unique case number. So in this case the incident
8 number, 072670412, is written on the paper. We also
9 have to denote the date in which we're doing analysis
10 and our initials. So in this case K.B. is Kristina
11 Blackmon, and she did the testing on October 17th,
12 2012.

13 Q. When we're talking about these items
14 contained in the rape kit, you said there's a cutting
15 made. Is that shown on these three images of the
16 panties, Item 3.9?

17 A. Yes. So the lower right image shows the
18 crotch of the panties. The upper left and the lower
19 right are the exterior of the panties, front and
20 back. But the lower right would be the crotch. So
21 what the analyst is noting here is what she took on
22 for DNA analysis, what she took during her screening
23 process. And then the remainder of that crotch that
24 was not used in testing is what's in this coin
25 envelope.

1 Q. And when we're talking about the -- label
2 specific items in here where some amounts of semen
3 were detected, can you -- are we talking about a lot
4 of semen or a small amount of semen on items 122
5 through 126?

6 A. Well, our testing is -- for screening is
7 not really quantitative in terms of the amount of
8 semen, but the DNA results would suggest it was not a
9 lot of semen.

10 Q. And was any sperm specifically detected in
11 these items?

12 A. No sperm was observed.

13 Q. And the technical term for the sperm would
14 be what?

15 A. Spermatozoa, the name of the cell.

16 Q. When we're talking about the items, were
17 there other items that were swabbed that were taken
18 in this case that did not show any semen,
19 specifically test positive for semen?

20 A. Yes. The hand swabs, so the R hand and the
21 L hand swabs, were not tested for semen. Rather they
22 were retained for possible contact DNA, and so those
23 just were retained for DNA analysis.

24 Q. Okay. And specifically in regards to Item
25 3.4, the anal swab, did it test positive for semen?

1 A. The anal swab is Item 3.3, but it was
2 negative for the presence of semen.

3 Q. Okay. And could that potentially be
4 consistent with someone not ejaculating or not having
5 semen make contact with the anus?

6 A. Yes.

7 Q. Is it also -- I mean, sometimes do you guys
8 conduct these analyses and don't come up with any
9 semen?

10 A. Yes.

11 Q. Okay. Now, I mean, when we're talking
12 about these types of cases and you're testing for
13 semen, what do you mean by testing for contact DNA
14 like in regards to the L hand and the R hand?

15 A. So anytime two individuals come into direct
16 contact with each other, potential DNA transfer is
17 possible or it exists. And so typically with
18 fingernail swabs, because sexual assaults can be such
19 an intimate encounter, the possible -- we want to
20 test those fingernail swabs in case there was maybe a
21 scratch or something like that that could link the
22 two individuals together.

23 Q. Again I just want to, when we're talking
24 about the DNA potentially being present in regards to
25 an individual, there is no way to quantify the timing

1 of when that DNA got onto an item?

2 A. That's exactly correct. DNA cannot tell
3 time, meaning when it got there, nor can it tell us
4 circumstances. So we cannot tell how it got there.

5 Q. Okay. And so you can't provide any type of
6 direction in regards to the encounter or the nature
7 of the encounter that potentially left DNA at a
8 scene?

9 A. That's correct.

10 Q. You are just basically trying to see if you
11 can find any of it and then trying to analyze it?

12 A. Correct.

13 Q. Let's talk about what you were able to
14 analyze in this case. Let's talk about where there
15 were items that you were able to get some type of DNA
16 or male DNA recovered on. When you did the testing,
17 was there female DNA present on a lot of these items?

18 A. Yes.

19 Q. And when you're looking at a sexual assault
20 kit, did that surprise you?

21 A. Not at all.

22 Q. But is that what you're looking for?

23 A. Well, we don't -- we're not necessarily
24 looking for anything. I mean, we get what we get.
25 But it is very common to detect the DNA of the

1 individual whose body was swabbed in the process of
2 collecting the kit. It's very routine to get their
3 DNA. Forensically we're interested in finding DNA
4 foreign to that individual.

5 Q. Of the items that were sent to the Sorenson
6 Lab, what were those items?

7 A. Sorenson received the vaginal swabs, the
8 labia minora swabs, the R hand swab, the L hand swab,
9 the known saliva swabs, and a portion of the stain
10 from the panties. However, they only performed DNA
11 testing on the vaginal swabs and the labia minora
12 swabs, as well as the complainant's known saliva
13 swab, Patricia Moore.

14 Q. Can you tell us just generally whether or
15 not based upon your laboratory reports and your file
16 whether or not Sorenson was able to develop a male
17 DNA profile?

18 A. They were not. With the locations I
19 mentioned earlier, those 15 locations plus
20 amelogenin, all of the DNA results came back
21 consistent with Patricia Moore. So there was only
22 female DNA and all the DNA detected was consistent
23 with Patricia Moore.

24 Q. Okay. And when you're talking about some
25 of those items having semen on it, Patricia Moore

1 doesn't produce semen, does she?

2 A. I would not think so.

3 Q. So, is it sometimes possible that you're
4 going to have semen present on an item but when you
5 actually do testing, all that you can actually
6 recover from it is a female source?

7 A. Sure. It's not uncommon because in the
8 presence of an abundance of female DNA that male DNA
9 may go undetected. So it's not uncommon in samples
10 where we only detect semen and not actual sperm that
11 when we do the DNA testing we just pick up that
12 female DNA. Because what's happening is there is so
13 much more of her DNA she's masking that male DNA.

14 The system is sensitive, but in the
15 presence of an abundance of DNA, it's going to --
16 what we see is that abundance of DNA, not that lower,
17 lesser amount of DNA.

18 Q. And in regards to the samples from
19 Sorenson, they were obviously returned to the Houston
20 Police Department; is that correct?

21 A. Yes.

22 Q. Did you guys attempt to do additional
23 testing?

24 A. We did.

25 Q. And did you attempt to do additional

1 testing on the vaginal swabs?

2 A. Yes, we did.

3 Q. And were you able to develop any type of
4 data of a male source?

5 A. Yes. So when we got the Sorenson results
6 and we only detected female DNA, I went and looked at
7 the quantity of DNA detected. The quantitation
8 system actually enables us to determine how much
9 total human DNA as well as male DNA. Even though we
10 only got results for female DNA, there was very small
11 amounts of male DNA present in that sample. So I
12 then did a type of testing called Y-STR DNA testing.
13 The exact same procedure that I described before, but
14 instead of looking at these 15 locations that vary
15 from person to person, we look at 15 locations that
16 are unique to the Y chromosome. The utility of this
17 type of testing is that when there is an abundant
18 amount of female DNA, the marker can go in and just
19 get that male DNA. So it's sort of a needle in a
20 haystack. We don't -- that female DNA is not masking
21 the male DNA. The system can then just pick up that
22 male DNA.

23 Q. So when we're talking about the Y-STR DNA
24 testing, that is a little bit different than the
25 traditional DNA testing?

1 A. It's different in the sense of the
2 locations that we're amplifying, but the entire
3 process is otherwise the same.

4 Q. When you're talking about just looking at
5 the male chromosome, the Y, the Y strand. The X
6 strand comes from the mother; Y strand comes from
7 your father; is that correct?

8 A. Correct.

9 Q. And would I, as a man, have the same Y
10 strand as my father has?

11 A. You would.

12 Q. Does that make it harder to get
13 narrowed-down results for like a DNA match?

14 A. It does in the sense that if two DNA
15 profiles are the exact same, my only conclusion could
16 be that that individual could have contributed it but
17 also any biological brother, his biological father,
18 an uncle who was the brother of his father, anybody
19 in that paternal lineage would also have the exact
20 same Y-STR DNA profile. So when it doesn't match,
21 it's very clearly definitely not that person. But
22 when it does match, the possibility exists that it
23 could be a family member.

24 Q. Are the statistical ratios for Y-STR versus
25 traditional DNA testing different?

1 A. The approach is very different, yes.

2 Q. How is that?

3 A. Well, with traditional DNA, because we know
4 every profile is unique, we can apply frequencies to
5 a profile or apply allele frequencies to a profile
6 and give an overall frequency of a particular profile
7 in the population. So typically those numbers are
8 going to be one in 600 quadrillion, meaning this
9 profile is very rare and unique.

10 With Y-STR, because it's not
11 necessarily different from person to person, the
12 approach is different in that instead of assigning a
13 frequency to a profile, we go into a database and
14 basically see has this profile been observed before.
15 So when I see that two profiles are consistent, I put
16 it into the database and the database will tell me
17 out of 6,000 profiles, this has been seen zero times,
18 one time, or two times. So, if it's been seen zero
19 times, it's a good indication that it's probably
20 rare. But the size of the database could impact sort
21 of the meaning of that.

22 So in this case I did that. When the
23 profiles were consistent, I applied the profile to
24 the database and could get a count. It's called the
25 counting method -- how many times has this particular

1 profile been observed in this particular database.

2 Q. What database are you talking about when
3 we're talking about just -- not traditional, not 600
4 quadrillion, but when we're just talking about the
5 male profiles, where is the database detected?

6 A. It's called the US Y-STR database. It's an
7 American database that forensic labs here can use. I
8 believe it's managed by some folks in Florida. But
9 basically Y profiles can be uploaded to this
10 database, and then we can put our unknown profiles
11 into it and determine how rare or how common a
12 particular Y-STR profile is in the population.

13 Q. Is this used by law enforcement agencies?

14 A. Yes, it is.

15 Q. Is this used by forensic DNA analysts in
16 your scientific community?

17 A. Yes, it is.

18 Q. Is it considered to be a reliable database?

19 A. As reliable as a database can be, yes.

20 Q. So the testing that you're doing here,
21 you're treeing to pull up the male profile because of
22 the overwhelming amount of female DNA present; is
23 that correct?

24 A. Correct.

25 Q. And you're doing that on the items that

1 contain semen, some semen. You're also doing it on
2 the hands and panties; is that correct?

3 A. I performed the Y-STR on the panties. I
4 also performed it on the vaginal swabs and the right
5 hand swab.

6 Q. And you're talking about the vaginal --
7 let's go back and let's talk first. Were you able to
8 get a Y-STR profile?

9 A. I was able to develop a very partial Y-STR
10 profile.

11 Q. Was it enough for you to try to make any
12 comparison?

13 A. I did not draw a conclusion due to the
14 limited nature of the data.

15 Q. We're talking about the right hand. Were
16 you able to develop a major Y-STR profile from the
17 right hand of the individual?

18 A. I was not. I was able to develop a
19 profile, but this particular sample yielded a mixture
20 of two males. Sometimes in a mixture of DNA if one
21 person gives a lot more than the other person, we can
22 deduce out what we call the major component or major
23 contributor from the minor contributor. Other times,
24 if they give similar amounts of DNA we refer to it as
25 indistinguishable. So I can't tell who gave what.

1 So in this particular case, the right
2 hand swab, there was a male profile detected. But
3 the individuals contributed very similar amounts, so
4 I was unable to draw a conclusion on that sample.

5 Q. So you guys are still trying to get
6 anything that's distinguishable enough to be able to
7 enter into the database; is that correct?

8 A. Correct.

9 Q. Were you finally able to get some type of
10 distinguishable results in regards to the cutting of
11 the panties?

12 A. I was.

13 Q. Okay. Did you upload that distinguishable
14 profile into the database that you were just talking
15 about, I guess, for that Y-STR database?

16 A. I was. Before I would even consider
17 statistics, I'm going to look at the profile and see
18 if I can draw conclusions. And in this case I was
19 able to -- there are actually two fractions of the
20 panties. When a sample is believed to contain sperm
21 or semen, we perform what's called a differential
22 extraction. Basically a process where we're trying
23 to separate non-sperm DNA from sperm DNA. It's a
24 physical and chemical process. So what we end up
25 with is what we call the sperm fraction, which would

1 presumably contain the sperm DNA, and then the
2 non-sperm fraction or the epithelial fraction. An
3 epithelial cell is basically any cell. Like your
4 skin will be made up of epithelial cells. So,
5 typically in a vaginal swab, for example, when we do
6 traditional DNA, the sperm cell fraction will contain
7 the DNA of the male who ejaculated inside the vaginal
8 cavity, and then the epithelial fraction would be the
9 DNA from that female whose cavity was swabbed by the
10 nurse examiner.

11 So in this case I did have two
12 fractions. I had a sperm fraction and an epithelial
13 fraction. And in both of them I detected a mixture
14 of DNA. And so because it was Y, it was of course
15 male DNA. But unlike the right hand swab, I was able
16 to distinguish a major component from the minor
17 component. And because of that I was able to do a
18 statistical analysis.

19 Q. Is that from the Florida database?

20 A. Correct.

21 Q. Okay. What happens when the quality of the
22 strand is distinguished in the Florida database, or
23 in the database for Y-STR results?

24 A. So in this particular database, you upload
25 the profile and it will give you a count of very

1 specific races. So this particular profile on the
2 sperm fraction of the panties was found zero in 5,871
3 African Americans, it was found in zero out of 3,753
4 Asians, it was found zero out of 6,714 Caucasian
5 individuals, it was found zero times in 3,504
6 Hispanic individuals, and it was found zero times in
7 3,327 Native American individuals.

8 Q. So when you're talking about those numbers,
9 are you talking about what would be a full lineage of
10 men -- a man, his father, his grandfather, his great
11 grandfather?

12 A. Yes.

13 Q. So when you're entering in a Y-STR
14 database, are you looking at what would be
15 potentially a full line of individuals -- a lineage
16 of individuals? I'm sorry.

17 A. Well, the profile I put in, yes, would be
18 from that male lineage. Are you asking about the
19 other --

20 Q. That's what I'm asking. Could you
21 distinguish between whether the son gave it or the
22 father gave it?

23 A. No, I could not.

24 Q. So you can't necessarily eliminate down to
25 a specific individual?

1 A. That's correct.

2 Q. You're just looking at a lineage that
3 exists in the United States?

4 A. Correct.

5 Q. So when you uploaded the distinguishable
6 results in this case, had that lineage ever been
7 entered into that database before?

8 A. It had not.

9 Q. So that lineage was new to the database?

10 A. Yes.

11 Q. In regards to the actual identification,
12 you give certain different races that you would be
13 able to compare it to; is that correct?

14 A. Well, the database searches the different
15 races, yes.

16 Q. And is that how you do it in both Y-STR or
17 just traditional DNA?

18 A. Yes. We also report unique races in
19 regular DNA testing.

20 Q. So the results that came up from the
21 database are consistent with the results that you
22 would expect to get, the breakdown of results would
23 be what you're putting into it; is that correct?

24 A. Yes. Yes.

25 Q. So with the counting method, this profile

1 had been found zero times in the population sample of
2 the database?

3 A. Correct.

4 Q. Is this type of Y-STR analysis typically
5 useful for law enforcement purposes for identifying a
6 particular individual?

7 A. No, it is not.

8 Q. Is it sometimes useful to potentially
9 eliminate an individual?

10 A. It's very useful to eliminate, yes.

11 Q. The known that you're comparing to in this
12 case, was that a known sample of an individual by the
13 name of Johnathan Castaneda?

14 A. Yes, it was.

15 Q. And is that a profile, an item of evidence
16 that has been marked for identification purposes as
17 State's Exhibit Number 128?

18 A. Yes. So the item marked as State's Exhibit
19 Number 128 is a buccal swab container that is labeled
20 with the unique incident number of 072670412, also
21 marked as Item 14. Item 14 is the item number
22 assigned by the property room and also maintained
23 within our laboratory.

24 Q. Okay. So when you were trying to make the
25 comparison for the result that you pulled out of the

1 evidence, you compared it to the known profile to try
2 to figure out whether he could potentially be a
3 contributor for that?

4 A. Correct.

5 Q. And so the comparison that you made to the
6 distinguishable profile in this case was associated
7 with what known individual?

8 A. With Johnathan Castaneda.

9 MR. PENEGUY: Judge, I pass the
10 witness.

11 THE COURT: Mr. Scott.

12 CROSS-EXAMINATION

13 Q. (BY MR. SCOTT) Ms. Guidry, as you can
14 imagine, I get lost in all that. But what you're
15 trying to do, I think, is take certain identifiable,
16 in this case, substance. At some point in time,
17 isolate a substance, break it down, and then see if
18 you can match it either to the person that might have
19 been in this case had panties on as well as another
20 contributor who maybe didn't have panties on,
21 correct?

22 A. Correct. We can do that, yes.

23 Q. All right. And you do that by having the
24 items. And I don't know about the number so -- some
25 numbers you talk about 3.1 and 3.2, 3.3, 3.4, 3.5.

1 Those different kind of numbers, and those were items
2 designated in such a way that came from a particular
3 person, correct?

4 A. They were contained within the kit
5 identified as being from Patricia Moore.

6 Q. Yes. All right. So you don't gather, you
7 don't talk, you don't do basically anything in
8 relation to the items except just get them in,
9 wherever they come from, you don't know necessarily.

10 A. Correct.

11 Q. You get them, you look at them, you compare
12 them, and then you come down here and talk to us
13 about it, right?

14 A. Generally speaking, yes.

15 Q. Is that it?

16 A. Yes.

17 Q. Okay. I mean, you did a whole lot of
18 studying and everything to just get to do that. But
19 that's kind of the bottom line when it's all done,
20 right?

21 A. Right. We do the testing, and then I'll
22 come present the evidence.

23 Q. Right. So now -- and I can't remember.
24 Won't make any difference, I don't think, in my
25 question. But you had a right hand sample and a left

1 hand sample somewhere in there, right?

2 A. Yes, sir.

3 Q. And the left hand sample and the right hand
4 sample would have come from whom?

5 A. It would have been from Patrician Moore.

6 Q. I'm sorry?

7 A. Patricia Moore.

8 Q. Okay. So Patricia Moore was buccal swabbed
9 or something at some point in time by somebody and
10 then submitted to you and you used that for -- to
11 analyze what was on the buccal swab, right?

12 A. Correct.

13 Q. Okay. And I can't remember. Did you say
14 you tested them or you didn't test them or Sorenson
15 did or Sorenson didn't or what?

16 A. Sorenson tested the vaginal swabs and the
17 labia minora swabs for traditional DNA as well as
18 Patricia Moore. And then in my laboratory I also did
19 traditional testing on the right hand swab, the left
20 hand swab, the panties, and the DNA from Johnathan
21 Castaneda.

22 Q. On the right hand swab, what did you find
23 out?

24 A. With traditional DNA testing?

25 Q. Yes, ma'am.

1 A. Okay. I developed a mixture of DNA. In
2 this case Patricia Moore was not excluded as a
3 possible contributor, but Johnathan Castaneda was
4 excluded as a possible contributor to the mixture on
5 the right hand swab.

6 Q. Okay. Now, I guess that's where I get lost
7 in the way you say it. You said that Johnathan-- I
8 got this part. Johnathan Castaneda was excluded?

9 A. Correct.

10 Q. Correct?

11 A. Yes.

12 Q. And how do you describe Ms. Moore?

13 A. She could not be excluded.

14 Q. Could not be. Does that mean it was hers
15 or not hers?

16 A. The evidence is consistent with it being
17 hers, but the language is we either exclude or fail
18 to exclude.

19 Q. Supposedly it was taken off of her hand by
20 somebody and somebody then sent it to y'all, right?

21 A. Correct.

22 Q. So you wouldn't say it's hers, but it
23 couldn't be excluded as not being hers; is that
24 right?

25 A. It's consistent with being hers.

1 Q. Okay. All right. In fingerprints they say
2 it's theirs or not theirs, but you don't phrase it
3 that way, right?

4 A. Correct.

5 Q. I think I was on the right hand?

6 A. You were on the right hand.

7 Q. Okay. Now we've got the left hand?

8 A. Yes, sir.

9 Q. What do we do about the left hand?

10 A. I obtained a mixture of DNA. Patricia
11 Moore was not excluded, meaning it was consistent --
12 she was one of the possible contributors, but
13 Johnathan Castaneda was excluded as a possible
14 contributor. So the DNA was not consistent with
15 Johnathan Castaneda.

16 Q. Now, I think you told us -- I don't
17 remember. I got lost off in the weeds somewhere
18 there. Seminal fluid might or might not have sperm
19 cells, correct?

20 A. Correct.

21 Q. All right. Sperm cells can be determined
22 to be mobile or immobile; is that correct?

23 A. Not by my laboratory. But yes, that can be
24 tested for it.

25 Q. Okay. Mobility in sperm cells, though,

1 would indicate the length of time that they'd say
2 been on an item or something like that before they
3 were examined, correct?

4 A. I don't know. We typically -- we never see
5 mobile sperm. By the time we get the item, it's
6 dried. So we will never make that distinction.
7 Could somebody else? Maybe.

8 Q. Well, mobile means alive, basically, right?

9 A. Moving.

10 Q. Mobile is alive; dry or nonmobile is dead
11 basically?

12 A. I don't know if dead or alive is the right
13 terminology. I would say moving or not moving.
14 Within the semen, the liquid semen, the sperm can be
15 mobile or can move. Once the semen is dry, the sperm
16 will cease to move and be immobile.

17 Q. All right. And that could be a time factor
18 determination theoretically?

19 A. Theoretically, yes.

20 Q. All right. So that wasn't anything that
21 was done that could help a person determine when some
22 other occurrence might have happened where there was,
23 in fact, ejaculation, right?

24 A. Correct.

25 Q. You don't do that anyway, right?

1 A. We don't do that. And in this case we
2 didn't see sperm, so --

3 Q. Was there any nitrites tested for on either
4 one of the hands of Ms. Moore?

5 A. Not to my knowledge. Not in my laboratory.

6 Q. Okay. Nitrites such as gunpowder, that
7 kind of thing wasn't tested for, to your knowledge?

8 A. Not to my knowledge, no.

9 Q. You didn't do that?

10 A. We did not. Correct.

11 Q. So if she handled a pistol or anything like
12 that, you would not know it?

13 A. I would not know.

14 Q. Okay. Now, you talked about -- I don't
15 know the swabs. The anal swab, did it have a number?

16 A. The anal swab did have a number associated.
17 That was Item 3.3.

18 Q. Okay. 3.3. All right. And was seminal
19 fluid detected in that sample?

20 A. It was not.

21 Q. All right. Wasn't even there, correct, of
22 any form?

23 A. If it was, it wasn't enough for us to
24 detect. So we did not detect seminal fluid on the
25 anal swab.

1 Q. Okay. I guess more curious than
2 instructive, you say some DNA can override other DNA
3 to the point where you can't find the other DNA; is
4 that basically what you are saying?

5 A. Yes.

6 Q. If it overrides it, how do you know it's
7 there to start with? I'm just asking.

8 A. Well, that's a good question. And the
9 initial results that Sorenson developed, the only DNA
10 was from Patricia. So there was no evidence of a
11 second contributor because the amount of female DNA
12 was so much greater than the amount of male DNA.

13 Q. So it would be like dropping a pack of
14 Kool-aid into a great, big swimming pool. You might
15 not be able to figure out it's even in there.

16 A. I like that analogy, yes.

17 Q. But when you get it back or I guess what
18 you are kind of telling us that even though Sorenson
19 was accredited -- and you've worked there, right?

20 A. No, I didn't work there, but I've been to
21 their laboratory.

22 Q. I thought you said you worked for
23 Identigene and then they were taken over and you went
24 out there.

25 A. I opted not to go up there.

1 Q. Oh, opted not to.

2 A. Yes.

3 Q. Didn't want to go to Salt Lake City?

4 A. *(Witness laughing.)*

5 Q. But anyway, you're familiar with them,
6 right?

7 A. I am.

8 Q. Because you helped accredit them, I see?

9 A. No, I didn't help accredit them, but I have
10 been to their laboratory, I've reviewed their
11 protocol, I'm familiar with them.

12 Q. You checked the protocol?

13 A. Yes.

14 Q. Anyway, they didn't come up with the answer
15 you came up with, correct?

16 A. Well, we did two different types of tests.

17 Q. No. No. I understand. But they did not
18 come up with the answers that you came up with,
19 right? You used a different test than they did,
20 correct?

21 A. Correct.

22 Q. It was sent out there though for them to do
23 the appropriate testing, whatever appropriate might
24 be, right?

25 A. Yes.

1 Q. Okay. When you get it back though, I guess
2 what? You're capable of finding the Kool-aid, the
3 seminal fluid, and they couldn't, right?

4 A. If I had asked them to do Y's, they would
5 have also gotten the same results.

6 Q. Oh. Okay. So why do you do Y's?

7 A. Well, Y-STR's are -- well, it was requested
8 specifically in this case for us to do Y-STR's. It's
9 not something we routinely ask the vendor labs to
10 provide for us. Because it is an extra service, it's
11 more costly. And also it's not -- the information
12 obtained cannot go into the DNA database, the CODIS
13 database. So it's not routine process. So we opt to
14 perform it internally when it's necessary.

15 Q. Now, you said that there was -- and I don't
16 know, I just wrote down part of it. Must mean
17 something. You said there was some testing that
18 indicated two males or Y's or two male results?

19 A. Yes, sir.

20 Q. Go ahead. I'm sorry.

21 A. On the Y-STR testing on the right hand swab
22 I detected multiple males. There was more than one
23 male present on the right hand swab.

24 Q. Okay. I heard something. Okay. Back up
25 to the right hand. Back up to the right hand. We

1 have what? At least two or more? Or what have we
2 got there on that right hand?

3 A. I would say at least two individuals.

4 Q. At least two males, correct?

5 A. Correct.

6 Q. And this was on Patricia Moore's right hand
7 at the time the swab was taken, correct?

8 A. Correct.

9 Q. And those two males, at least two males,
10 none of which coincided to be that of Johnathan
11 Castaneda; is that right?

12 A. Well, because it was an indistinguishable
13 mixture, I did not interpret the profile. In other
14 words, I didn't say one way or the other if he was on
15 that sample.

16 Q. Did you say he was excluded, though?

17 A. I did not.

18 Q. Okay. So whatever was happening on the
19 right hand might or might not have had something to
20 do with Johnathan Castaneda?

21 A. Correct.

22 Q. Okay.

23 A. But if I might add, he was excluded when we
24 did the traditional DNA testing.

25 Q. Had been excluded but not totally.

1 A. Well, I would disagree. He was excluded
2 with the traditional DNA.

3 Q. Yes, ma'am.

4 A. And so the Y-STR's, I just -- I couldn't
5 interpret that data. But I did definitively exclude
6 him on the traditional DNA test from the right hand.

7 Q. Now, you talked about -- what was it? You
8 said something about the Florida database or
9 something about Florida?

10 A. Yes, sir.

11 Q. Okay. I guess, tell me about that.

12 A. Like I said, it's a database that -- the
13 individual who manages it, he's in the State of
14 Florida. He, I believe, is at the Florida National
15 University, Dr. Jack Valentine. That's how Florida
16 came up. But it's a database of American male
17 profiles, so it's specific to the U.S. population.
18 There are other databases that are specific to maybe
19 European males. But in this case it's United States
20 specific male DNA profile.

21 Q. So that would be like taking -- we're going
22 to talk about that a whole bunch. That would be like
23 taking a whole bunch of pictures of people and
24 putting them in a database, right? That would be in
25 essence what they are doing, but they are doing DNA

1 stuff in there, right?

2 A. Correct.

3 Q. Okay. So this guy runs whatever it is,
4 puts in the stuff, and then you have access to it by
5 going onto the computer and finding it, right?

6 A. Correct.

7 Q. Now, when you did that, though, you said
8 that there was -- well, what did you say? There was
9 zero records of Johnathan Castaneda's DNA in that
10 system, or what?

11 A. No, sir. Not Johnathan Castaneda. The DNA
12 profile I entered was the major component found on
13 the panties, the sperm fraction and epithelial
14 fraction. And because it was consistent with
15 Johnathan Castaneda, I went and did statistics. If I
16 had determined that the profile was not consistent
17 with Johnathan Castaneda, I would have just concluded
18 he's excluded, end of story. Because the profiles
19 were similar, I went to the database. And so I put
20 this evidence profile into the database, and it
21 provided to me those counts or observations within
22 the database. So what I was reporting was zero, it
23 had been seen zero times in 5,871 African-Americans,
24 for example.

25 Q. Okay. If you're African-American -- let's

1 stick with that number, African-American. Then that
2 one had never been seen by the database person
3 before, right? Or it had been but it's only that
4 number of people that had never been seen? I guess
5 I'm confused. I don't understand.

6 A. So the profile entered has never been
7 observed in the databases. In each of the races
8 there are just different numbers of people. So,
9 African-Americans, there are 5,871 African-American
10 profiles in the database and this profile was seen
11 zero times in that subset, that 5,871. That 3,773
12 Asian individuals, so he's never been seen.

13 Q. And once again -- and I don't know. But
14 you're not capable of, once a buccal swab is being
15 taken, to have any idea how long ago even the buccal
16 swab was taken; is that accurate?

17 A. I -- if the -- maybe if the carton was
18 dated. I wouldn't have personal knowledge, correct.

19 Q. But I mean just -- you got one and you
20 think it had been used, buccal swab, and you look at
21 it, you can't tell -- say it's got saliva on it, the
22 inside of the cheek, that kind of thing. They've
23 heard testimony about that. When you tested it, you
24 can't tell what day and time that was done; is that
25 accurate?

1 A. That is very accurate, yes, sir.

2 Q. All right. So it might last for what? And
3 I just -- I know I've had a -- somebody said there
4 could be DNA on mummies in the pyramids, right?

5 A. Yes, sir.

6 Q. So it lasts a long time?

7 A. If stored properly, DNA is very stable and
8 can last a long time, yes.

9 Q. Certainly a day?

10 A. Absolutely.

11 Q. Anything like that, right?

12 A. Yes.

13 Q. If properly taken care of.

14 A. Correct.

15 MR. SCOTT: Pass the witness, your
16 Honor.

17 REDIRECT EXAMINATION

18 BY MR. PENEGRUY

19 Q. In regards to -- just to follow up to what
20 Mr. Scott just asked you in regards to DNA can last
21 on an item for a long period of time, right?

22 A. It can. Again with proper storage
23 conditions, yes.

24 Q. There has been some talk about the right
25 hand and Johnathan Castaneda's profile being

1 eliminated from the right hand. Is DNA always stored
2 on an item when someone touches it? I mean, can you
3 tell us with if that right hand ever touched him or
4 not? Or can you interpret that?

5 A. I couldn't say that with these results.

6 MR. PENEGUY: Pass the witness.

7 MR. SCOTT: No further questions,
8 Judge.

9 THE COURT: You are excused. Thank
10 you so much.

11 What time is lunch?

12 THE BAILIFF: Noon.

13 THE COURT: Next witness, please.

14 MR. PENEGUY: State calls Sergeant
15 Elliott.

16 THE COURT: From the State, please.

17 C.E. ELLIOTT,

18 having been first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. PENEGUY

21 Q. Sir, would you introduce yourself to the
22 jury.

23 A. I'm Sergeant C. E. Elliott of Houston
24 Police Department homicide division.

25 Q. How long have you been with the Houston