Q. And the bloodstain card that we looked at in State's Exhibit 109, did you open that or test that in any way?

A. I did not.

Q. And what did you do with it?

A. I retained it in the lab for the next -- for the DNA analyst to open.

Q. Okay.

MS. ONCKEN: We'll pass the witness.

MR. MARTIN: We have no questions, your Honor.

THE COURT: Thank you, ma'am. You can step down.

Who's next?

MS. ONCKEN: State calls Robin Guidry.

THE COURT: Can you raise your right hand, please?

(Witness sworn)

THE COURT: Have a seat.

ROBIN GUIDRY,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION

Q. (BY MS. ONCKEN) Can you please introduce yourself to the jury?

A. Good afternoon. My name is Robin Guidry.

Q. And how are you employed?

A. I am the technical manager of the DNA section of the Houston Police Department crime laboratory.

Q. You said you were the technical manager?

A. Yes, ma'am.

Q. And what does that entail?

A. I'm responsible for the technical happenings in the laboratory to make sure we're compliant with national standards and guidelines.

Q. And are you also a DNA analyst in addition to those other duties?

A. Yes, I am.

Q. And can you tell the jury: What kind of education did you have to receive to be able to do what you're doing today?

A. I have a Bachelor of Science Degree from Loyola University of New Orleans. I also have a Master of Science from the University of Florida in forensic serology and DNA.

Q. And after getting your Master's, what was your first job?

A. Well, I was initially employed by the New Orleans Police Department crime laboratory. There I conducted conventional serology where we did tests

like blood typing. I also did blood alcohol analysis. From there I went to Reliagene Technologies, which is a private DNA laboratory in New Orleans, a forensic DNA laboratory. I was there for almost two years when I came here to Houston to Identigene, which was another private forensic DNA laboratory. Identigene was acquired by a laboratory in Salt Lake City in June of 2008. And it was in 2008 that I came on to the Houston Police Department.

Q. And how long have you been here specifically at the Houston Police Department doing DNA analysis?

A. It's about three and a half years.

Q. And how long have you been doing DNA analysis in total?

A. It is over 11 years.

Q. Okay. You also mentioned the accreditation board or something to that effect; is that correct?

A. I did.

Q. Okay. And is the H.P.D. lab what we call "ASCLD accredited"?

A. We are accredited by the American Society of Crime Laboratory Directors Laboratory Accreditation Board.

Q. Okay. And what exactly does that mean?

A. For a laboratory to be accredited, an outside agency will come into our laboratory. They will review our policies and procedures to make sure that they are compliant with the national standards and guidelines, but they also come into our lab and examine our case files to make sure that we follow our policy. It's one thing to have a good policy. It's another thing to follow your policy. In addition to looking at case files, they look at educational records to make sure we're all competent to do our jobs. They look at the security of the laboratory, that sort of thing. In addition to that, we must participate in what's called "proficiency tests" twice a year. And this is a way for the accrediting agency to ensure that when they're not around we're still producing accurate and reliable results.

Q. And the lab is accredited, correct?

A. Yes, ma'am. Yes.

Q. All right. I want to go ahead and turn your attention to a case that you worked on in, I believe, 2010. And do you-all organize your cases in accordance with the H.P.D. case number?

A. Yes, we do.

Q. Okay. In other words, if an officer

submits a request and says, "Please test this in this case of mine," then you'll have the same case number as that officer did; is that right?

A. We do now, yes.

Q. Okay. Right. Before, it was a little bit more complicated, wasn't it?

A. Right. The laboratory would have a unique lab number that was associated with the H.P.D. incident number. But since about 2010, we've started just using that incident number.

Q. And, so, I want to ask you specifically about H.P.D.'s Case Number 45698410-S, like Sam. Did you do some DNA analysis in relation to that case?

A. Yes, I did.

Q. Okay. And was it a H.P.D. homicide officer that made that request?

A. May I refer to my notes?

Q. Please do.

A. Well, the request was made or submitted by an Officer Avila and Officer Delacruz.

Q. Okay.

A. I'm not sure if they're homicide detectives or not.

Q. Okay. That's fair enough. And I guess that's a good question, too. Unlike TV, are you

going to the crime scene?

A. We do not.

Q. Okay. So, you are strictly your portion of the story and only that, correct?

A. Yes, ma'am.

Q. Just the DNA. What were the objects or the items from which you were trying to obtain a DNA profile?

A. I conducted DNA analysis on two items of evidence, first being Item 3.1.1.1, which is a portion of a red-brown stain from a baby shirt. The second item of evidence was Item 3.2.1.1, portion of a red-brown stain from a towel. I also tested a known sample, which was Item 4.1, portion of known bloodstain card from Kamron Kelly.

Q. Okay. Now, I asked about obtaining a DNA profile. And I sort of made that assumption. Can you tell the jury: Why are you looking for a profile, an unknown profile, in an item like this?

A. Well, the DNA testing that we employ in our forensic lab is human identification testing. We can try to obtain a DNA profile from an item of evidence; and if we do get a profile, we can compare it to a known sample to see if they came from the same individual or not.

Q. And, so, what would then be the purpose of obtaining the blood from the deceased baby in this case?

A. Well, without a reference to compare it to, we just have a DNA profile and we can't really draw any conclusions except we can tell you the gender of that donor. We can say if it's male or female. And we could also tell you if it's one or more individuals present.

Once we have something to compare it to, we can say it is or is not from that individual. But without a reference, a DNA profile is somewhat meaningless.

Q. And then the 3.1.1.1, why are your numbers designated that way?

A. Let's see. The --

Q. In other words, do you start with -- is the original item, like, the T-shirt?

A. Correct.

Q. And then do you keep going down from there?

A. Correct. So, I guess, the shirt and the towel came from the original package. And, so, the shirt was designated 3.1 and the towel 3.2. The first item from the box, second item from the same box. Then the screening analyst identified six

individual stains. And, so, those were given a unique number, 3.1.1, 3.1.2, and so on through 3.1.6. Then from the stain, we took a portion of that to do DNA testing. So, my portion has a unique sub number from that original parent item. So, from 3.1.1, the stain, my portion is 3.1.1.1. It's a way to ensure that each stain is uniquely identified.

Q. Okay. It's late on a Friday; but I'm going to ask you to explain for the jury in laymen's terms, if you can, the steps of the DNA analysis that you would have conducted.

A. Sure. Very basically it's four basic steps. The first one, we're extracting the DNA. At this step we're trying to separate the DNA from the cells that contain it. So, in this case, if it's a blood cell, I'm trying to remove the DNA from the cell and also remove the DNA from the item that it was on. So, in this case, the shirt or the towel. What I want to end up with is a very pure form of DNA.

The next step is to amplify the DNA. In this step we are making millions and millions of copies of very specific regions of the DNA. For our purposes, we're not interested in the DNA that is the same from human to human. We only focus on those

regions of DNA that vary from person to person. So, we make millions and millions of copies of just those regions.

Q. And how many regions are there?

A. We look at 15 regions plus amelogenin, which is the sex determining marker. So, that marker that says male or female. So, 15 regions that could vary from person to person.

The next step is to load that amplified or copied DNA onto what's called a "genetic amplifier." Very simply this is an instrument that separates the DNA fragments; and with the assistance of analysis software, it converts that information, that electrical information, into essentially a graph, something that I can visualize and do my comparisons.

So, when I have an evidence sample that does yield a DNA profile, I can compare it to a known sample and try to determine if they are from the same origin. So, that's the fourth step, where I'm interpreting the profiles.

If my conclusion is that the evidence and the reference could have come from the same individual, I will then perform a statistical analysis to give a meaning to that match. How common

is this profile. And that's the statistic that we would also provide to let the reader of the report know that not only do they match, but it is extremely rare and so rare that it's unlikely that it came from someone other than the person I've compared it to.

Q. Okay. And did you perform that complete five-step analysis on both the towel and the baby shirt?

A. I did, but on one stain each from the towel and the baby shirt.

Q. Okay. Now, let's talk about 3.2, the towel. Did you determine whether or not -- or were you able to find a DNA profile?

A. Yes. On the Item 3.2.1.1, the portion of red-brown stain from towel, I obtained a full single source male DNA profile. What that means by full is I got results everywhere I tested. Sometimes the samples are degraded or there's not a lot of it. So, we might get partial results. But in this case there was enough good quality DNA for me to get a full profile.

By single source I mean there's evidence of only one contributor. There's not a second person also there. And then male, of course, means it came from a male individual.

Q. Okay. And when you -- obviously you had the victim's blood. And, so, you had a known profile for the victim, correct?

A. Yes, ma'am.

Q. Okay. And then did you do the comparison between the two, the profile that you found on the towel and the victim's blood?

A. I did.

Q. And what did you determine?

A. The profiles were consistent with one another. So, my conclusion was that Kamron Kelly could not be excluded as the DNA donor to the stain from the towel.

Q. Okay. And then did you conduct the fifth step, the statistical analysis?

A. I did. So, using the F.B.I.'s database on frequencies of these genetic markers, I determined the approximate frequency of this specific profile. That frequency is approximately one in 95 septillion for Caucasians, one in 320 quintillion for African Americans, one in 380 quintillion for Southeast Hispanics, and one in 2.6 octillion for Southwest Hispanics.

Q. Now, you said that you get statistics from the F.B.I.?

A. We use their database, yes.

Q. Okay. And what is that for exactly?

A. The F.B.I. has collected data. They have tested people's DNA profiles and determined how common a particular marker is. And, so, we use those frequencies in the calculation of this overall profile.

Q. And, so, why do you split it up between the different races or ethnic groups?

A. Well, we tend to vary somewhat genetically based on our race. And, so, alleles might be more or less common in one race compared to another race.

Q. Okay. And, so, is that common in every case that you will make a statistical analysis for each of those different groups?

A. Yes. We don't consider the race of the person we're comparing it to. We just -- we make no assumptions about the evidence. So, we're going to provide all the races available.

Q. Okay. And, so, if you have information that the baby, the victim in this case, was of African American origin, should we look specifically at these numbers?

A. In my opinion, no. I mean, again, we're -- we don't consider the person who we believe it came

from. We just -- the frequency of this particular profile, this evidence, is these different frequencies of these different races.

Q. Okay. And you used numbers that are kind of unbelievable to me. When you say "95 septillion," how many zeros are after the 95?

A. Twenty-four zeros.

Q. Okay. And then quintillion, is that five? Help me.

A. You would think five, but it's not. It's actually -- it's 18 zeros.

Q. Okay. And the likelihood -- and explain to us again how you -- if you say "one in 95 septillion," that means only one person in 95 septillion is going to have that same DNA profile; is that right?

A. Correct. What the frequency is trying to do is give meaning that this is an incredibly rare profile. And, again, one out of approximately 95 septillion people would have this profile. So, we have found one person that matches it. To find someone else, other than an identical twin, we would have to likely go through 95 septillion individuals.

Q. And one in 320 quintillion people in the African American community have that same DNA

profile. So, again, that's going to be 320 plus another 18 zeros?

A. Yes, ma'am.

Q. Okay. And are there 320 quintillion people on the planet?

A. There are not. Currently we are approaching about 7 billion.

Q. Okay. So, it's basically saying only one person on this planet has that profile?

A. Basically, yes, at this time.

Q. Okay. Next, the baby shirt. How many profiles were you able to find on the shirt?

A. On the shirt I obtained or I did test one item, 3.1.1.1, portion of red-brown stain from baby shirt. In this particular sample, I did get a full DNA profile, but it was a mixture, meaning there was more than one contributor. However, one contributor gave more DNA than the other. So, there's more DNA from one individual. I could treat that as a major component and distinguish it from a minor component. So, the major component of the mixture obtained from the baby shirt was also consistent with Kamron Kelly's DNA profile.

Q. Okay. And then at the beginning -- well, when you're doing the testing, you only have one

known profile, the infant, correct?

A. Yes, ma'am.

Q. Okay. So, now you have at least one other person contributing their DNA on the shirt?

A. Correct.

Q. Okay. But at this point, has it been submitted to you any suspect DNA?

A. No, ma'am.

Q. Okay. And is that the end of your portion in this case?

A. It is.

Q. Okay.

A. Yes.

Q. And do we have, I guess, the quantification on the DNA from the victim on the shirt? Is it similar to the numbers that you got on the towel?

A. The exact same actually because it's the same profile. The major component is the same as that single source profile.

Q. Okay.

MS. ONCKEN: Pass the witness.

CROSS-EXAMINATION

Q. *(BY MR. MARTIN)* Do you guys have a name for every zero from a trillion on to 27 zeros?

A. Well, are you asking, like, million,

billion, trillion?

Q. Yes. You said 27 zeros is one of those.

A. Yes.

Q. Do you have one for the 26th zero below that?

A. One? Is that what you're asking?

Q. Do you have a name for every zero? You went from billion to trillion. Then you've got --

A. Well, there's, you know, tens, then thousands, then millions, then billions, trillions, quadrillions.

Q. And you have a name for every zero up to 27 zeros after that?

A. Yes. And I believe it goes higher. I'm just not aware of them.

Q. Neither am I.

MR. MARTIN: All right. I'll pass the witness.

THE COURT: Thank you, ma'am. You can step down.

THE WITNESS: Thank you.

THE COURT: Who's next?

MS. ONCKEN: Priscilla Ancira Hill. This is the last one.

THE COURT: You can stand up and

stretch.

MS. ONCKEN: Actually, before Ms. Hill takes the stand, I just realized -- my co-counsel -- there's one thing that I forgot to admit through Ms. Guidry that I --

THE COURT: Do you need to recall her?

MS. ONCKEN: Just briefly.

THE COURT: Ms. Ancira, you want to wait outside real quick?

She forgot something. Have a seat. You're still under oath.

MS. ONCKEN: May I approach?

THE COURT: Yes, ma'am.

REDIRECT EXAMINATION

Q. (BY MS. ONCKEN) My co-counsel showed me that I forgot a few items I wanted to introduce, State's Exhibit 114, 115, and 116. And do you recognize these three items?

A. Yes, I do.

Q. And how do you recognize them?

A. Two of them are the notes from the screening analyst that were in my case file. Exhibit 116 is a notation that I created.

Q. Okay. 114 and 115, would those have come from Ms. Schoonover then?

A. Yes, ma'am.
Q. Okay. And basically we're just looking at photographs of the items and the notes that correspond to the items; is that correct?
A. Yes, ma'am.
Q. Okay. And then on 116, those are your notes?
A. Yes, that's correct.
Q. Okay. And we're looking at the bloodstain card envelope that contained Kamron Kelly's blood; is that correct?
A. Yes, ma'am.
Q. Okay. And did someone in your laboratory take each of these photographs?
A. I took the bloodstain card photograph because I noted a discrepancy. So, I wanted to document in the case file --
Q. And hold on. When you say you noted a discrepancy, with what kind of number was it?
A. The M.L. number associated with this item, the outer envelope was -- it appeared someone initially wrote M.L.10-00977 and then crossed out to say 0997. But the inside actual bloodstain card still had the M.L.10-0977. So, I wanted to photo document it just to note that discrepancy.

Q. Okay. Just to cover yourself that someone had switched a number around --

A. Correct.

Q. -- accidentally? Okay. All right. And then did you or someone in your lab send us these documents to be able to print out for the jury's use, if it could be helpful?

A. Yes. I believe I sent you the one from my notes, and then I believe Shauna e-mailed you hers.

MS. ONCKEN: Okay. State offers 114 through 116 and tenders to counsel for any objection.

MR. MARTIN: We have no objections, Judge.

THE COURT: Being no objection, State's 114 through 116 will be admitted.

Q. (BY MS. ONCKEN) All right. Thank you so much. I apologize.

MS. ONCKEN: Pass the witness.

MR. MARTIN: I have nothing, Judge.

THE COURT: Thank you, ma'am. You can step down again.

THE WITNESS: Thank you.

MS. ONCKEN: The State calls Priscilla Ancira Hill.

THE COURT: Raise your right hand,