

1 Hoffman.

2 THE COURT: And just so you'll know,
3 ladies and gentlemen, this witness was sworn in front
4 of me right before y'all came in. So, y'all won't see
5 that happen, but it's already been done.

6 THE COURT: Ms. Downing?

7 MS. DOWNING: Thank you, Judge.

8 KERI HOFFMAN,
9 having been first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. DOWNING:

12 Q. Ms. Hoffman, would you please introduce
13 yourself to the jury?

14 A. Yes. My name is Keri Hoffman.

15 Q. And how are you currently employed?

16 A. I'm employed by the City of Houston in the
17 controlled substance section. And I'm managed by the
18 Houston Forensic Science Center.

19 Q. Okay. And can you tell the jury what that is?

20 A. The Houston Forensic Science Center was --
21 it's a local government corporation that was
22 established by the mayor. She appointed a board of
23 directors. And it's a government-controlled
24 corporation. It's kind of a new experiment in the
25 United States. And we are formally the Houston Police

1 Department Crime Lab. So, now we are our own entity
2 away from the police organization.

3 Q. Okay. And what is your occupation there?

4 A. My title is criminalist. And basically in the
5 controlled substance section, we're referred to as a
6 forensic analyst or a forensic chemist.

7 Q. And can you tell the jury what that means?

8 A. I receive evidence and determine if a
9 controlled substance is present, like pharmaceutical
10 drugs or certain plant substances that contain
11 something that's illicit, like marijuana. And now, we
12 have what's known as the synthetic marijuana cases.

13 Q. And what type of education or background do
14 you have to have in order to become a forensic analyst?

15 A. I have a Bachelor of Science degree from Texas
16 A & I University in Kingsville. It was formally known
17 as -- now, it's known as Texas A & M in Kingsville. I
18 acquired additional hours -- post-baccalaureate hours
19 in chemistry from Brazosport College in Lake Jackson
20 and some more post-baccalaureate science hours at Texas
21 A & I when I finished. At the time I was teaching in
22 Kingsville. I was a former teacher.

23 Q. Okay. And have you received any additional
24 specialized training in regards to being a drug
25 analyst?

1 A. Yes. In order to become a member of our
2 section, we have an extensive training within the
3 laboratory for -- it takes over six months now. Our
4 new training program -- which I've helped train some of
5 our people -- is -- it takes like a year almost before
6 they are fully on the box.

7 Q. And do you belong to any additional
8 organizations?

9 A. Yes. I'm a member of the Southwestern
10 Association of Forensic Scientists. I've also been an
11 instructor for the cadet classes at the Houston Police
12 Department.

13 Q. Okay. And the laboratory, the Houston
14 Forensic Science Center, what type of accreditation
15 does it have?

16 A. At the time of the analysis for this case, it
17 was ASCLD lab, which was also recognized by the Texas
18 DPS.

19 Q. Okay. And have you testified as an expert
20 witness before?

21 A. Yes.

22 Q. Often, not so often?

23 A. Many times.

24 Q. And does this include expert testimony in the
25 same thing that you're going to testify to today?

1 A. Yes, it does.

2 Q. Okay. Can you describe to the jury how it's
3 possible to take an unknown substance and identify it?

4 A. Yes. In my line, I receive the evidence and
5 determine what type of substance it is. In this
6 particular case, it was a chunk-like substance. And I
7 used chemical and instrumental analysis to determine if
8 a controlled substance is present in that particular
9 substance. In this case did a series of spot tests.
10 Which can indicate -- it's like a presumptive test that
11 indicates what substance may be present in that sample.
12 And then I ran what is known as my confirmatory test,
13 which is a gas chromatograph mass spectrometry test,
14 which is GCMS.

15 Q. That's a big word. As far as your spot test,
16 can you describe to the jury what that means?

17 A. Basically I take some of the substance, in
18 this case, the chunk substance. Place it in our spot
19 plate ceramic container. And chemicals are added to
20 the substance and you observe a color change.

21 In this case, it's the cobalt thiocyanate
22 test which is used for the determination if cocaine
23 could be present in your sample. And it gives you a
24 blue color.

25 Q. So, you do that spot test, but then you do an

1 additional test?

2 A. Yes. I performed my confirmatory instrumental
3 test.

4 Q. And can you describe to the jury what that
5 entails?

6 A. The gas chromatograph mass spectrometry, GCMS
7 test, it's basically an instrument that determines the
8 components of that mixture or substance based upon the
9 masses in that substance.

10 Q. And are there types of procedures or
11 regulations that you have to abide by in your
12 laboratory to make sure that these tests are done
13 correctly?

14 A. Yes. We follow what's known as our standard
15 operating procedures, SOPs.

16 Q. And what are a few of those SOPs?

17 A. Maintaining the integrity of the evidence to
18 prevent change or cross transfer for the substances we
19 are analyzing. Keeping proper chain of custody.
20 Keeping our area clean for when we're doing our
21 analysis. We have one particular evidence envelope
22 opened at a time, one case at a time. And we work that
23 particular case.

24 Q. Okay. In addition to recognizing a substance,
25 you also weigh the substance.

1 A. Yes.

2 Q. Can you describe to the jury what that
3 entails?

4 A. The substance -- we have our analytical
5 balances and our top-loader balances in our work area.
6 So, depending on the amount of the substance, if it is
7 below I would say 0.2 grams, I like to use the
8 analytical balance because it gives four decimal
9 places. And I have my top-loader balance at my work
10 area, where it gives you -- I have two decimal places.
11 So, I use it for things over .2 grams, .3 grams.

12 Q. And do you have standardized operating
13 procedures for weighing them as well?

14 A. Yes.

15 Q. Okay. And when you did the analysis in this
16 case, did you follow all of those standardized
17 operating procedures?

18 A. Yes.

19 Q. And how often do you perform these type of
20 analyses?

21 A. I do them daily.

22 MS. DOWNING: Permission to approach,
23 Your Honor?

24 THE COURT: Yes, ma'am.

25 Q. (BY MS. DOWNING) Ms. Hoffman, I'm handing you

1 what's been marked and admitted as State's No. 6 and
2 No. 7. Can you tell the jury what State's Exhibit
3 No. 6 is?

4 A. State's Exhibit No. 6 is the outer Houston
5 Police Department evidence envelope that the evidence
6 was submitted in.

7 Q. Okay. And how do you know that that's the
8 evidence that relates to this case?

9 A. I can identify it by the unique case number or
10 our laboratory -- we call it our forensic case number,
11 2014-060568. And I also recognize that it also
12 corresponds to the HPD incident number assigned to this
13 case, 027538414 and it was Item 5. And my initials are
14 also on the envelope.

15 Q. Okay. And when you say it was Item 5, what
16 are you referring to?

17 A. The Article 5. And then I take the evidence
18 inside and can sub-document what's inside --

19 Q. Okay. And what's --

20 A. -- sub-item.

21 Q. Excuse me.

22 What's State's Exhibit No. 7?

23 A. State's Exhibit No. 7 was the Ziploc that
24 contained the torn baggie with the chunk substance.
25 And it was submitted, sealed by the officer into the

1 evidence envelope.

2 Q. Okay. And is -- you mentioned that State's
3 Exhibit No. 7 is the drugs that the officer put into
4 the sealed envelope. How do you know that?

5 A. It has my forensic case, No. 2014-06568. And
6 I designated it as Item 5.1 because it comes of the
7 Evidence Envelope 5, as well as my initials.

8 Q. Okay. Thank you.

9 Ms. Hoffman, I'm now showing you State's
10 Exhibit No. 6. You had said that you had initialed
11 this?

12 A. Can you push it down some.

13 Q. Yes, ma'am.

14 A. Up at the top, it's right in the middle, right
15 here.

16 Q. Okay.

17 A. KH.

18 Q. And additionally you had initialed State's
19 Exhibit No. 7?

20 A. Yes. It is right here.

21 Q. Tap it one more time.

22 A. (Witness complying).

23 Q. Okay.

24 A. It's kind of blurry.

25 Q. So, once you receive the -- well, explain the

1 process of how you receive the drugs to the jury.

2 A. I received -- the evidence is first assigned
3 by our section manager or designee who is in charge of
4 assigning the cases for that week. Once the list is
5 created, it is delivered to Centralized Evidence
6 Receiving Section of the property room. The property
7 room that we have in the same building that we are.
8 We're at 1200 Travis. We're on the 26th floor.
9 They're on the 25th floor. They have the vault there
10 where they keep the drug evidence.

11 Once they have the list of the cases to
12 be assigned that week, they're given by analyst and
13 then passed out to each analyst. We receive them on
14 Wednesday's now.

15 Q. Okay. So, you receive the whole envelope and
16 everything that's inside?

17 A. I received this case and some other cases that
18 day, the sealed evidence, yes.

19 Q. Okay. And so to do an analysis, what's the
20 first step after you receive the evidence?

21 A. I first -- I put the forensic case number
22 assigned because I know it is -- corresponds by our --
23 we have a laboratory management system. And I know
24 that that police incident number corresponds to our
25 unique number, which was the 2014-06568. So, I first

1 put that on the evidence envelope. I then do an
2 inventory when I'm ready to analyze the case before I
3 do my analysis and determine if the contents correspond
4 to what the submission form that the officer submits
5 with the evidence as well as what is sometimes written
6 on the envelope correspond.

7 Q. Okay. And did they correspond in this case?

8 A. Yes, they did.

9 Q. Okay. After you make sure those two things
10 correspond, what's the next step in your analysis?

11 A. I would perform -- in this case I did a weight
12 of the chunk substance.

13 Q. Okay.

14 A. For State's Exhibit No. 7, that is my Item
15 5.1.

16 Q. Okay. So, 5.1 where it -- was the chunk
17 substance?

18 A. Yes.

19 Q. And how much did it weigh?

20 A. It weighed 1.24 grams.

21 Q. 1.24 grams.

22 Okay. What was the next step in your
23 analysis?

24 A. I performed the spot test which indicated
25 possible presence of cocaine and gave the blue color.

1 And then I perform my confirmatory GCMS test.

2 Q. And after your GCMS test, what was the
3 conclusion?

4 A. The conclusion -- I confirmed that cocaine was
5 present in the chunk substance.

6 Q. Okay. You say cocaine was present. Can you
7 explain to the jury what an adulterant or dilutant is?

8 A. Yes. Adulterants and dilutants are added to
9 the controlled substance to add bulk to the amount of
10 the case, to increase the weight amount. It's
11 sometimes referred to as the cutting agents.

12 Q. Okay. So, they essentially take a small
13 amount of drugs and make it bigger?

14 A. Yes.

15 Q. Okay. And can you tell the jury, to your
16 knowledge, how -- what's the process in making crack
17 cocaine?

18 A. The crack cocaine is the base form of cocaine
19 where they take the powder -- commonly known as the
20 kilo powder form you see on TV. They take that and
21 place it in a glass container with a baking -- a basic
22 substance like baking powder, baking soda with water.
23 This is then heated. It can be on a hot plate or it
24 can be on the stove or in a microwave. And basically
25 what happens, in the process it converts and oils out

1 to the bottom of that particular container. So, if
2 it's a beaker or a measuring cup, it forms a solid
3 substance at the bottom of the beaker which is the
4 basic crack form. Looks like a cookie or a praline
5 shape. It's round. It takes the shape of the
6 container.

7 Q. Okay. So, for clarification, they take pure
8 cocaine originally?

9 A. From the hydrochloride salt -- yes, the salt
10 form.

11 Q. Okay. And they do stuff to it.

12 A. They add the water and the basic, the powder.

13 Q. And that makes this cookie.

14 Q. And then it converts it to the basic form of
15 crack. It oils out to the bottom.

16 Q. Okay. And when you weight this evidence,
17 Ms. Hoffman, how do you weigh it? Do you weigh it
18 within all the packaging? Do you take it out? How is
19 that done?

20 A. It is the net weight which is just the chunk
21 substance.

22 MS. DOWNING: Permission to approach,
23 Your Honor?

24 THE COURT: Yes, ma'am.

25 Q. (BY MS. DOWNING) Ms. Hoffman, I'm now handing

1 you what's been marked as State's Exhibit No. 2. Do
2 you recognize this?

3 A. Yes I recognize it by the forensic case
4 No. 201406568. The outer bag is labeled 5.2 with my
5 initials. And the containing Items 5.21, 5.23, 5.24.
6 And let's see, I said 5.2 already.

7 3 and 4, yes.

8 Q. And where did these items, 5.2 3 and 4, where
9 did they come from?

10 A. These were all inside of the Item 5 evidence
11 envelope.

12 Q. Okay. So --

13 A. The officer's submitted envelope.

14 Q. Okay. So, it's evidence that was submitted at
15 the scene?

16 A. Yes.

17 Q. Okay. And how do you know that these items
18 relate to the items in this case?

19 A. I put the forensic case number on them and it
20 also was part of -- it was inside of the envelope.

21 Q. Okay. I'm also going to hand you what's been
22 marked as State's Exhibit No. 8. Do you recognize
23 that?

24 A. Yes. This is a copy you generated of my
25 actual report for the evidence.

1 Q. Has it been changed or altered in any way?

2 A. No, it has not.

3 Q. Okay. And is it an accurate depiction of your
4 analysis?

5 A. Yes, it is.

6 Q. Okay.

7 MS. DOWNING: State would --

8 Q. (BY MS. DOWNING) For clarification purposes,
9 Ms. Hoffman, State's Exhibit No. 6, is that the
10 evidence envelope that State's Exhibit No. 22 came out
11 of?

12 A. Yes. Item or State's Exhibit 22 was inside of
13 State's Exhibit No. 6.

14 Q. Okay. And you would reference State's
15 Exhibit 6 as being Article 5?

16 A. It's Article 5 of the property room's
17 management system.

18 Q. Okay.

19 A. EMS.

20 THE COURT: You originally identified
21 that large plastic baggie as State's Exhibit No. 2.
22 Now, you're calling it State's Exhibit No. 22. Which
23 is it?

24 MS. DOWNING: It is marked as State's
25 Exhibit No. 22.

1 THE COURT: All right.

2 MS. DOWNING: State would move to admit
3 State's Exhibit No. 8, her report.

4 MR. BUNDICK: We have no objection to
5 State's Exhibit 8.

6 THE COURT: State's Exhibit 8 will be
7 admitted with no objection.

8 Q. (BY MS. DOWNING) Ms. Hoffman, we're looking
9 at State's Exhibit No. 8. Can you identify to the jury
10 where it lists how much the cocaine had weighed?

11 A. It is under the results and interpretations
12 section of the report. For Item 5.1, contains cocaine
13 and my weight is 1.24 grams.

14 Q. So, for clarification, the total of State's
15 Exhibit No. 7 was the 1.24 grams?

16 A. Yes. Article or State's Exhibit 7 is my item
17 designated as 5.1, which is the chunk substance. And
18 it weighs 1.24 gram and it contains cocaine.

19 Q. And in State's Exhibit No. 22 that's marked
20 for purposes of identification, what did you find that
21 Exhibit 22 contained?

22 A. My item or State's Exhibit 22 contained items
23 that contained marijuana.

24 MS. DOWNING: Pass the witness, Your
25 Honor.

1 THE COURT: Mr. Bundick?

2 MR. BUNDICK: May I proceed?

3 THE COURT: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. BUNDICK:

6 Q. How are you, Ms. Hoffman?

7 A. Good. How are you?

8 Q. Pretty good.

9 You're the chemist; is that fair?

10 A. Yes. We're referred to as forensic analytical
11 chemists.

12 Q. And work for a government-controlled
13 corporation. Is that what you said?

14 A. We are a local government corporation that is
15 under the city. But we're a forensic identifying lab.

16 Q. Okay. And to determine whether there are
17 drugs present, you do chemical and instrumental
18 analysis. Is that fair?

19 A. Yes.

20 Q. And if I recall, you indicated that you do a
21 spot test which would indicate whether there is a
22 presence of drugs.

23 A. It could be an indication, yes.

24 Q. And then you do a confirmatory test which
25 would tell you -- I guess, would confirm the presence

1 of drugs; is that fair?

2 A. Correct.

3 Q. And there are several instruments that you can
4 use to do that confirmatory test --

5 A. Yes.

6 Q. -- is that right?

7 In this case I believe you said you GCMS
8 test; is that right?

9 A. Yes.

10 Q. Help me out here, gas --

11 A. Chromatograph.

12 Q. Chromatograph.

13 A. Mass spectrometry.

14 Q. And when did you that -- when did you the
15 first test, the spot test, the -- you were -- it turned
16 blue; is that right? Is that what I understood? And
17 that's the spot test.

18 A. Yes.

19 Q. But the GCMS test is much more detailed; is
20 that fair?

21 A. That is why it's a -- considered in our field
22 to be a confirmatory test, yes.

23 Q. Okay. Does the GCMS test tell you what
24 portion of the evidence that you're examining is a
25 controlled substance?

1 A. It identifies the components of that mixture,
2 yes.

3 Q. Does it tell you what portion of that mixture
4 is a controlled substance and which is -- what did you
5 refer to it as, a cutting agent. Is that what you
6 said?

7 A. It's -- would be adulterants or dilutants
8 added, other substances, with the controlled substance.
9 It can identify some of those also.

10 But are you asking me like quantitating
11 the amount of the substance?

12 Q. Can you tell us in State's Exhibit 7 how much
13 of that was a controlled substance?

14 A. Not --

15 Q. And how much --

16 A. We did not do a quantitation of the amount of
17 the controlled substance.

18 Q. Can you do that with the GCMS test?

19 A. It's not part of our standard operating
20 procedures. Because in the State of Texas, you do not
21 need to do that analysis.

22 Q. But you could with the that -- with machine;
23 is that fair?

24 A. It's possible that there's procedures in
25 place, but it's -- we don't do that analysis.

1 Q. Okay. You-all don't do that. And certainly
2 you didn't do that in this case.

3 A. Not in this case, I did not do --

4 Q. But you could do --

5 A. It's possible to do a quantitative analysis
6 for an amount of substance, yes.

7 Q. Help me out with the analytical balance test
8 versus top letter [sic] balance test. I don't
9 understand the difference?

10 A. The top-loader balance is the balance we use
11 in our work area. And it's just used for -- I would
12 like consider it larger quantities of a substance. I
13 did say something -- I like to use it if it's over .1
14 or .2 grams of a substance. If it's under that, I like
15 to use the analytical.

16 Q. Is that because in larger samples, the
17 top-loader balance test gives you more -- a more
18 detailed answer to what the weight is? Is that fair?
19 More decimal points; is that right?

20 A. The analytical for determining smaller amounts
21 would be able to weigh because it would be like .0080
22 grams. That would be eight milligrams of the
23 analytical.

24 In this case for this evidence, it was
25 over a gram. It was actually 240 milligrams higher

1 than a gram. So, I used my top loader.

2 Q. But your standard operating procedures and
3 certainly your decision in this case was not to
4 determine what portion of the specimen you were
5 examining was a controlled substance?

6 A. I do qualitative analysis, not quantitative.

7 MR. BUNDICK: Pass the witness.

8 THE COURT: Ms. Downing?

9 MS. DOWNING: Thank you, Judge.

10 REDIRECT EXAMINATION

11 BY MS. DOWNING:

12 Q. Ms. Hoffman, why doesn't the State of Texas
13 require you to do the quantitative analysis?

14 A. In the law the weight of the substance
15 includes the adulterants and dilutants present for the
16 total substance.

17 MS. DOWNING: Pass the witness.

18 THE COURT: Mr. Bundick?

19 RECROSS-EXAMINATION

20 BY MR. BUNDICK:

21 Q. Working for a government-controlled
22 corporation, it's part and parcel of your job to be
23 called to testify for the State. Is that fair?

24 A. Yes. I come for testimony for the defense and
25 the prosecution.

1 Q. Okay. But when you're weighing evidence
2 submitted by a police officer, if you're working for
3 the government, you would have no reason to determine
4 the small particular amount of drugs that were involved
5 in a larger substance, would you?

6 A. I'm just going by what the law is and how our
7 operating procedures are. We do the qualitative. It's
8 not necessary to do the quantitative. We can have it
9 sent out to do so, but right now we are not required to
10 do that.

11 Q. But is it fair that you're a State's witness?
12 You're testifying on behalf of the State at the State's
13 request; is that fair?

14 A. I am testifying of evidence that I received,
15 yes.

16 Q. And when you do that and you're facing
17 cross-examination from a defense attorney, he's always
18 going to ask you what portion was -- of that substance
19 was a controlled substance and what portion was -- we
20 met before; isn't that correct?

21 MS. DOWNING: Objection to speculation,
22 Your Honor.

23 THE COURT: Overruled.

24 A. I've had that question before, yes.

25 MR. BUNDICK: Pass the witness.

1 THE COURT: Ms. Downing?

2 MS. DOWNING: No further questions, Your
3 Honor.

4 THE COURT: All right. Thank you, ma'am.
5 You may step down and step outside.

6 Call your next witness, please.

7 MS. DOWNING: State calls Officer
8 Robinson.

9 CODY ROBINSON,
10 having been previously sworn, testified as follows?

11 THE WITNESS: Hi, Judge.

12 THE COURT: Welcome back.

13 THE WITNESS: Thank you, sir.

14 THE COURT: Ms. Downing.

15 MS. DOWNING: Thank you, Your Honor.

16 DIRECT EXAMINATION

17 BY MS. DOWNING:

18 Q. Officer Robinson, you are the officer that
19 testified a few hours ago in this same case.

20 A. Yes, ma'am.

21 Q. Okay.

22 MS. DOWNING: Permission to approach,
23 Your Honor?

24 THE COURT: Yes.

25 Q. (BY MS. DOWNING) Officer, I'm handing you