

1 doing?

2 THE WITNESS: I'm fine. How are you?

3 THE COURT: Real good.

4 Raise your right hand, please. Oh,  
5 you've already been sworn?

6 THE WITNESS: Yes, I have.

7 THE COURT: All right. Thank you.

8 You may proceed.

9 **RHONDA PEMBERTON,**

10 having been first duly sworn, testified as follows:

11 **DIRECT EXAMINATION**

12 BY MS. COOPER:

13 Q Can you state your name for the record,  
14 please.

15 A Rhonda Pemberton.

16 Q Okay. And how are you employed?

17 A With the City of Houston as a police  
18 officer.

19 Q Can you tell the members of the jury about  
20 your background and education?

21 A I have been a police officer for about 16  
22 years. And I've been with CSU for the last six. And  
23 I've got two years of junior college and lots of  
24 training with HPD.

25 Q How -- what kind of training do you have to

1 be a CSU officer?

2 A We take a lot of specialty classes, like  
3 basic crime scene processing, photography, video,  
4 things like that.

5 Q And just like Officer Aguilera, is your role  
6 just the collecting and processing and documenting of  
7 evidence?

8 A Yes.

9 Q Now, what training and experience do you  
10 have in swabbing for DNA or dusting for fingerprints?

11 A Well, I've taken some basic crime scene  
12 classes and lots of hands on experience with the  
13 training. When we first become crime scene, we ride  
14 with a seasoned investigator.

15 Q Okay. And what kind of crime scene  
16 documents do you have? Or I should -- what -- so if  
17 you can explain to the jury the classes that you've  
18 taken and what you learned as far as collecting DNA  
19 swabs?

20 A Well, it's usually just reviewed in those  
21 classes. It's fairly simple. I actually learned how  
22 to do that on the job, but I've also done it in the  
23 classes. So...

24 Q Is it -- about how many different crime  
25 scenes have you worked or collected evidence over

1 your career?

2 A Six years worth. I couldn't really tell you  
3 though.

4 Q Hundreds?

5 A Hundreds. Yes.

6 Q Okay. Is DNA something that -- I mean,  
7 obviously we want to have it when it's there, but is  
8 it something that you get in every case?

9 A No, it's not something you get in every  
10 case. It's hit or miss.

11 Q And what do you mean by that? Explain that.

12 A You have to locate it first, and -- or in  
13 areas you think may have it. And if you find that  
14 area, then you follow the steps to collect it and  
15 then you turn it in to the lab.

16 Q And then what about fingerprints? If  
17 someone touches an object, any object, are they  
18 always going to leave identifiable fingerprints  
19 behind?

20 A Not always. Fingerprints are basically your  
21 oils and your perspiration on you. And some people  
22 sweat and produce more oil than others. So, I may  
23 leave more prints than the next person or I may be,  
24 you know -- it depends on the textures and -- there's  
25 a lot of things involved. I mean --

1 Q What do you mean "the textures?" How can a  
2 texture --

3 A Well, like this is a smooth texture and I  
4 could probably leave some prints up here pretty  
5 easily. If you have like a dashboard of a car or  
6 something that's more rough, there's other more  
7 advanced way to collect it than just the dust and  
8 powder. But, you know, if you don't know that a  
9 person's touched this thing, you know -- or you might  
10 take a chance of, hey, they may have touched this and  
11 collect it.

12 Q Now, are there times where, you know -- if  
13 you can just explain to the jury what an identifiable  
14 fingerprint is versus just a print?

15 A Well, I'm not a latent expert. But you have  
16 to have ridge detail. Ridges are the lines on  
17 your -- everybody has them, the fingerprints, and  
18 they're specific to each individual.

19 Q Okay. And as far as what I'm asking you  
20 about, as far as collecting them, are there times  
21 where you see where you may think it's fingerprints  
22 and collect them. But then you find out later that  
23 there were no identifiable prints?

24 A Yes. That happens quite a bit because as a  
25 latent examiner, you know, in a -- in a -- they're in

1 a controlled environment. They have microscopes and,  
2 you know, and plus the education. In the scene -- in  
3 the scene, I may not have proper lighting, I may see  
4 some ridges but maybe not have enough detail to make  
5 a print.

6 But if there's a possibility that it  
7 might be one, and I think maybe, oh, that didn't look  
8 very good as a print, I can turn it in and they may,  
9 in a controlled environment, see more than I can see.

10 Q I want to talk to you about 5206 (sic)  
11 Groton in Harris County, Texas.

12 Did you have an opportunity, back in  
13 May of 2011, to go out to that scene and process a  
14 door?

15 A Yes, ma'am.

16 Q When was that?

17 A May 24th, 2011.

18 Q Okay. So are you aware of when the murder  
19 occurred?

20 A I was advised that it happened on 5/19/2011.

21 Q And you go out on 5/24. What's the purpose  
22 for you going out -- back out there?

23 A I was advised that I need to process a door  
24 and attempt to collect some prints or DNA.

25 Q All right. Why is it that -- and if you can

1 explain to the jury why something like that would be  
2 done later and not the night of?

3 A Well, when you're at a scene and the  
4 investigators are at a scene, you collect what you  
5 see and you collect -- you know, you can make some  
6 scenarios and, you know, I'll collect this because  
7 this may have happened. The scene's cleared, the  
8 investigators are continuing on with their  
9 investigation, and through interviews or witnesses,  
10 they might find out additional information for  
11 something that happened, and then we may get called  
12 out to do a follow up.

13 Q Okay. And was this a follow up?

14 A Yes.

15 Q All right. So May the 24th, you go out  
16 there and was this daytime?

17 A Yes.

18 Q I want to show you State's Exhibit Number 1.  
19 These daytime photos, were these actually taken by  
20 you?

21 A It could have been, because I don't know  
22 what the other CSU took. But I did do overall -- you  
23 know, I don't know specifically if this is mine,  
24 because I don't know what time the original --

25 Q Okay.

1           A        Did.  But yes, I would have taken an overall  
2 of the location and I would have a picture like this.

3           Q        Okay.  So you did take daytime photos while  
4 you were out there?

5           A        Correct.

6           Q        All right.  So you're not aware of the  
7 photos that the CSU officer took when he actually  
8 went to the scene?

9           A        No.

10          Q        Okay.  Now, State's Exhibit Number 1, is  
11 this the house that you went to to process the front  
12 door?

13          A        Yes, ma'am.

14          Q        And when you get there, you go to the door.  
15 Tell the members of the jury what you see.

16          A        When I get there, I meet the homicide  
17 detectives, so they can instruct me on what they  
18 want -- want me to collect.

19          Q        Did you discuss -- well, you can't go into  
20 what other people said, but did you have a discussion  
21 with the homicide detectives about the case?

22          A        Not really.  They just told me that they  
23 needed -- that this door -- the scene had already  
24 been processed, but the -- they would like for me to  
25 attempt to collect DNA or fingerprints, if possible,

1 on the exterior portion of the door.

2 Q Okay. So you have a discussion with the  
3 homicide detectives, and based on that discussion,  
4 were you -- did you then begin to process the front  
5 door?

6 A Yes.

7 Q And what were you -- you said for DNA and  
8 fingerprints?

9 A Yes.

10 Q But is there -- if you can walk the jury  
11 through the steps that you take when you process  
12 something -- anything for DNA?

13 A Well, on this scene, I would take a basic in  
14 situ photo, which is how I found it. And then on  
15 this scene and most scenes, after you take your in  
16 situ photo, you'll start to process it. In this  
17 case, I -- let me see -- put some latent print dust  
18 on a good portion of the door that may have been  
19 touched and may have DNA and may have fingerprints.

20 Just visibly I couldn't just see  
21 anything. So I dusted the main -- middle portion of  
22 the door, the whole thing. Once I saw -- I saw  
23 several smudge marks that could be possible DNA,  
24 because the powder sticks to oils, perspiration,  
25 things like that. So, the door doesn't -- it had



1 several smudge -- smudged, like not clear, it was  
2 obviously smudged sections on it.

3                   So after I get what I'm trying to  
4 develop, then I'll label them so I can write about it  
5 in my report. And -- like I'll label each one I'm  
6 going to attempt to collect. And so I would label  
7 what I was going to collect. And then with  
8 fingerprints and DNA, I would try to get -- look for  
9 the prints first, or what was developed first,  
10 because if you smudge it from trying to collect the  
11 DNA, you're going to ruin the print.

12                   So, I looked at each of the smudges and  
13 if I saw something that had any kind of ridge  
14 characteristic detail on it, I would attempt to lift  
15 that by putting tape -- adhesive tape on the door,  
16 and then I'd lift the tape up, leaving a small  
17 portion on the door. Put a index card over it and  
18 then -- under it, and then smooth the tape down on to  
19 the paper. And then you can see if you have a print  
20 or not.

21           Q        Okay.

22                   MS. COOPER:   May I approach the  
23 witness, Your Honor?

24                   THE COURT:   You may.

25           Q        (BY MS. COOPER) I want to show you State's

1 Exhibits 71, 72 and 73. Do you recognize these?

2 A Yes.

3 Q Are these photographs -- or what are they?

4 A These are photographs that is I took.

5 Q All right. And do they fairly and  
6 accurately depict the -- some of the steps that you  
7 took while trying to -- attempting to collect DNA and  
8 fingerprints in this case?

9 A Yes.

10 MS. COOPER: Your Honor, at this time,  
11 I'm tendering to opposing counsel State's 71, 72 and  
12 73 for any objections, and then ask that they be  
13 admitted into evidence?

14 MR. MAYR: No objection, Your Honor.

15 THE COURT: All right. State's 71, 72,  
16 73 are admitted.

17 (State's Exhibits 71, 72 and 73 were  
18 admitted.)

19 Q (BY MS. COOPER) All right. I want to start  
20 with State's 71, is this the front door?

21 A Yes. This would be the in situ picture that  
22 I told you about. You'll see that there's some  
23 impact sites on the door. And then they are labeled.

24 Q What do you mean by impact sites? Those  
25 bullet holes?

1           A       Yes.

2           Q       Okay.  And then if you can explain to the  
3 jury, on State's Exhibit Number 73, what is this --  
4 what's the dark?

5           A       This would have been the second and third  
6 step that I was talking about, where I put latent  
7 print dust on pretty much this whole -- this whole  
8 area of the door.  And then when I develop, you'll  
9 see some of these darker spots, like right here  
10 (indicating) and right here (indicating), and right  
11 here (indicating), and down in here (indicating).

12          Q       Are you pointing to the dark spots on the  
13 door in State's Exhibit Number 73, just for purposes  
14 of the record?

15          A       Yes.

16          Q       Okay.  And what are those?

17          A       They are -- well, smudged possible latent  
18 prints.

19          Q       Okay.  Now, what do you mean by "smudged  
20 possible latent prints"?

21          A       Well, they weren't clear.  They didn't  
22 have -- I didn't see by the visible eye, like clear  
23 ridges and things like that.  In this one right here  
24 (indicating), I think it's what, A and D?

25          Q       Let me stand it up.  No, you can --

1           A       Yes.  A and D.  Okay.  This one's A right  
2 here (indicating.)  The long one that goes -- whoops,  
3 this one right here is B, and then the one on the far  
4 left, you can't see it.

5           Q       Let me clear this, okay?  All right.

6           A       Okay.

7           Q       So if we start with A.

8           A       For the points of interest, what I may be  
9 able to process, I'd labeled each one.  This one in  
10 the top, I took -- that's some tape, that's like  
11 ruler tape, which we call scale tape.  And I called  
12 that one A.  And there's -- you can see that it's  
13 dark and smudgy.  But you can also see maybe right up  
14 in here, there may be a fingerprint.  It's not real  
15 clear.  And so I would attempt to lift that and turn  
16 it to the lab, to see what they can see.

17          Q       Okay.  And as far as smudges, in order to  
18 have a fingerprint, someone has to actually touch it  
19 with their hands; is that right?

20          A       Well, yes.

21          Q       Okay.  You can't touch it with --

22          A       If you touch it with your -- right.  For  
23 fingerprints, you have to touch it with your hands,  
24 palms or the top of your finger.  I mean, all --  
25 you've got prints all the ways.

1 Q So if someone touches it with their arm or  
2 their -- a closed fist, you're not going to have a  
3 identifiable fingerprint?

4 A Correct.

5 Q And then as far as identifiable  
6 fingerprints, it has to actually be a full  
7 impression. Are you able --

8 A No. You can -- you can -- there's --  
9 sometimes you can only collect maybe a partial or  
10 maybe one that's got good ridge detail, but then it's  
11 also smudged, you'll get that. So, if it's got any  
12 kind of ridge detail to it, I'll submit it so they  
13 can, in a controlled environment, look closer at it  
14 and see what they can see.

15 Q All right. And how many -- or so you lifted  
16 possible prints off this door; is that right?

17 A Poss -- yes.

18 Q And were submitted to the lab?

19 A Right.

20 Q And were you aware of -- that there were no  
21 identifiable prints found?

22 A Right. I did hear that.

23 Q So there's no -- even though you attempted  
24 it and you tried; is that right?

25 A Right. Because if I don't attempt, you

1 could always leave that one -- that one behind. So  
2 we attempt when there's a possible.

3 Q All right. And then as far as you swabbed  
4 for DNA, what areas of the door did you swab for it?

5 A The four letter -- the four sections that  
6 are marked, where the pow collected, that showed me  
7 that something -- something with oils and  
8 perspiration touched the door. So I swabbed those  
9 areas including where I'd lifted from the  
10 fingerprints.

11 Q So if we go back to State's Exhibit Number  
12 73.

13 A Right.

14 Q The -- a darker area and such, are those the  
15 areas that you're referring to?

16 A Yes, all four of them.

17 Q Okay. And when you say "all four of them,"  
18 are those the ones that you've labeled -- you have  
19 the different rule -- it looks like a ruler to mark  
20 --

21 A It's a -- yes, scale tape.

22 Q A, B, C?

23 A C and then D.

24 Q And then D is at the bottom?

25 A Right. It's --

1 Q Now, do you swab the whole thing or how does  
2 that work?

3 A I didn't swab the whole door, I swabbed the  
4 sections.

5 Q Right.

6 A The points of interest -- I take -- we get  
7 these sterile cotton tipped swabs and they come in  
8 packs of two. They're the kind that HFD use,  
9 doctors, the know, the sterile pre- -- individual  
10 packaged swabs. They come two to a pack.

11 You open those, or you put a fresh pair  
12 of gloves on, you open those. You put a drop of  
13 distilled water to help hydrate. If -- if everything  
14 is dried on the -- if my target is dried, it will  
15 help rehydrate what I'm going after. And so the dark  
16 sections, I scrubbed each one with a different set of  
17 gloves and a different set of swabs.

18 Like for A, I did one package of two  
19 swabs, for B the same thing, C the same thing, and D  
20 the same thing.

21 Q And for DNA swabs or possible DNA swabs,  
22 after you take the swabs, what do you do with them?

23 A For each swab -- I'll do one at a time.  
24 I'll open the package, hydrate it, swab this --  
25 pretty much all this dark section. And then I'll

1 stick them back in the original packaging and set it  
2 in the brown paper bag, all paper so it can air dry.  
3 And then I'll repeat the step for each one, including  
4 changing gloves.

5 Q And is each one labeled with a identifying  
6 case number?

7 A Yes. Well, yes.

8 Q All right. And are they initialed by you?

9 A Yes.

10 Q Okay.

11 A Now, sometimes on the actual paper, I may  
12 just put A. But the package that I put that in to,  
13 will have case number, the address, the date, my  
14 initials and all that.

15 Q And then those are submitted off to the  
16 crime lab to be analyzed whether or not there's DNA?

17 A I place them into the HPD property room.  
18 The investigator then sends -- requests that they be  
19 processed.

20 Q And so as far as the testing, the DNA  
21 testing, you don't do that?

22 A I don't -- yes, I don't make any of those  
23 decisions. I submit it and they -- if they choose  
24 that they found it relevant for their case or  
25 whatever, they'll have it tested.



1 Q Okay.

2 A And then most of the time, I don't even find  
3 out, you know, until court, whether or not they even  
4 came back to anything.

5 MS. COOPER: I pass the witness.

6 THE COURT: All right. Questions?

7 MR. MAYR: Thank you.

8 **CROSS-EXAMINATION**

9 BY MR. MAYR:

10 Q Investigator Pemberton -- I mean, Officer  
11 Pemberton, did you -- do you remember telling the  
12 investigators out there that it appeared that the  
13 unknown suspect placed his forearm on the door to  
14 hold it open, based on what you saw there --

15 A I don't remember if I told them that or if  
16 they told me that. I don't recall. I remember the  
17 conversation. I --

18 Q It's possible you told them that, right?

19 A It's possible, but it's also possible they  
20 told me that?

21 MR. MAYR: May I approach the witness?

22 THE COURT: You may.

23 Q (BY MR. MAYR) I'm going to show you a  
24 supplement by Investigator Condon. That was one of  
25 the investigators that you were out there with?

1 A Yes. Uh-huh.

2 Q I'll just have you read that to yourself,  
3 not to the jury.

4 A (Witness complies.)

5 Yes.

6 Q Does that help refresh your recollection?

7 A Yes. I remember the conversation, I just  
8 couldn't remember who -- if it was me or them. I  
9 mean, it's been a while. So...

10 Q Having refreshed your memory from this  
11 report, you were the one who told them, it looked  
12 like the suspect was trying to push on the door to  
13 hold it open?

14 A It -- yes.

15 Q And I mean, that's what we see right there,  
16 right?

17 A Right. And that's the reason I have that  
18 tape down like that, because it's showing the length,  
19 like the section that I was targeting with this.  
20 It's hard to see here, but you can see it was a lot  
21 darker. And something was up against it, most  
22 probably the arm.

23 Q And is it possible that there were -- it  
24 wasn't just the arm. You see the smudge up here, as  
25 well?

1           A       Right, that could have been the hand --

2                   THE COURT REPORTER:   Wait a minute. I'm  
3 sorry.   Please go back and say that question.

4                   MR. MAYR:   Okay.   Let's do this one at  
5 a time and make it easy for her.

6           Q       (BY MR. MAYR) It's possible that there was  
7 -- it wasn't just a hand, but there was other parts  
8 of the body that may have contacted the door right  
9 there, right?

10          A       Yes.   That's possible that they could be  
11 connected here -- that's A and B.

12          Q       You could have -- you could have possibly a  
13 shoulder and the person's head pushing into the door.  
14 What we see here could be from the person's shoulder  
15 and that's from the head, right?

16          A       Yes.

17          Q       We just don't know?

18          A       We don't know, but I mean, you know, head,  
19 shoulder, arm, whatever it does appear that somebody  
20 was pushing up on the door.

21          Q       Okay.

22          A       Somehow.

23          Q       Now, you're out there, you're out there on  
24 the 24th of May.

25          A       Uh-huh.

1 Q This is five days after the shooting took  
2 place; is that correct?

3 A Yes, sir.

4 Q Now, you're -- as a C -- you personally as a  
5 CSU, you don't have any special abilities that say  
6 that you're the only person who can dust a door and  
7 check it for prints; is that right?

8 A What do you mean, "I'm not the only person"?

9 Q Any of the CSUs that work with you at HPD in  
10 the CSU division, all of you all have the ability to  
11 take out your little jar and dust a door to see what  
12 we see there five days later, right?

13 A I don't know what -- I mean, if it came up  
14 and the investigators in the CSU -- we don't print  
15 every single thing -- place we -- you know, that  
16 would be redundant. But if there's a reason they  
17 think maybe there might be a print there, based on  
18 other information the investigators get, they would  
19 tell us, hey, you know, we might need you to do this.  
20 We might need to --

21 Q Here's my question: That all of you at CSU  
22 officers, in your kit of things that you take to a  
23 crime scene, you have the fingerprint powder there.  
24 It's not like you've got a -- it's not like an  
25 officer has to call you in to come out, because

1 you're the only one who can dust for prints and for  
2 DNA, right?

3 A Right. I mean, we -- any of the CSUs can  
4 dust it. But it may not be -- it may not be the  
5 point of interest at the day of the crime. You know,  
6 I mean.

7 Q And that's my point, is that no -- I  
8 understand, no one -- no one made a decision on the  
9 19th to do that?

10 A Right.

11 Q The decision to do a that wasn't made until  
12 the 24th. That is abundantly clear at this point.

13 A Yes.

14 Q My question to you is: On the 19th though,  
15 it wasn't -- there wasn't anything that could have --  
16 a CSU could have easily just gone back to his truck,  
17 gotten his fingerprint powder, and done exactly what  
18 you did five days later. If they thought to do that?

19 A If they thought to do that or if the  
20 investigators requested it.

21 Q Okay.

22 MR. MAYR: I have no further questions,  
23 Your Honor.

24 THE COURT: All right. Anything else?

25 MS. COOPER: No, Your Honor.

1 THE COURT: May Officer Pemberton be  
2 excused?

3 MS. COOPER: Yes, Your Honor.

4 THE COURT: Thank you, Officer.  
5 What says the State?

6 MS. COOPER: State calls Priscilla  
7 Hill.

8 THE BAILIFF: She has not been sworn,  
9 Judge.

10 THE COURT: All right. Thank you.  
11 Good afternoon, Ms. Hill.

12 THE WITNESS: Hi.

13 THE COURT: Raise your right hand,  
14 please.

15 (Witness sworn.)

16 THE WITNESS: Yes.

17 THE COURT: All right. Free feel to  
18 adjust the chair and microphone and answer as  
19 directly as you can. The Rule has been invoked, you  
20 know about that, right?

21 THE WITNESS: Yes, sir.

22 THE COURT: Okay. You may proceed.  
23  
24  
25

1                                   **PRISCILLA HILL,**

2   having been first duly sworn, testified as follows:

3                                   **DIRECT EXAMINATION**

4   BY MS. COOPER:

5           Q       Can you introduce yourself to the members of  
6   the jury, please?

7           A       Hi, my name is Priscilla Hill.

8           Q       How are you employed?

9           A       With the Houston Police Department crime  
10   laboratory.

11          Q       And if you can tell the members of the jury  
12   about your background, your education and training?

13          A       Sure. I have a bachelor's of science degree  
14   in forensic science from Baylor University and a  
15   master's of science in forensic DNA analysis from the  
16   University of Central Lancashire (phonetic).

17          Q       How long have you been employed at the  
18   Houston crime lab?

19          A       Almost eight years now.

20          Q       And what is your job title?

21          A       I'm a criminalist.

22          Q       And what is a criminalist?

23          A       Well, specifically at HPD, I'm a forensic  
24   DNA analyst. We're all -- have the criminalist  
25   title, but there's different disciplines. My