THE COURT: May the witness then be excused by agreement?

MR. AYERS: Yes, Judge.

MS. HORTON: Yes, Your Honor.

THE COURT: Thank you, Officer. You are excused. Jury, at this time why don't we take a short recess. Knock on the door when you're ready to return or ring the bell, whatever the device is there for you. Do not yet begin to discuss the case.

THE BAILIFF: All rise.

(Jury out)

(Short recess)

THE COURT: Recall and seat the jury, please.

THE BAILIFF: All rise.

(Jury in)

THE COURT: Ms. Horton, please call your next witness. Raise your right hand.

(Witness sworn)

THE COURT: Pull the microphone to some point that suits your voice. You'll probably have to move much closer to it than you planned. Speak louder than you intended to.

Proceed, please, Ms. Horton.

MS. HORTON: Thank you, Judge.

AMANDA PHILLIPS,

After having been duly sworn, testified as follows:

DIRECT EXAMINATION

Q. (By Ms. Horton) Can you please introduce yourself to the jury.

A. Amanda Phillips.

Q. Can you please spell your last name for the court reporter.

A. P-H-I-L-L-I-P-S.

Q. And what do you do for a living, Ms. Phillips?

A. I am a criminalist at the Houston Police Department Crime Laboratory.

Q. And how long have you been employed at the Houston Police Department Crime Lab?

A. Next week will be seven years.

Q. And did you work in any crime labs before the Houston Police Department Crime Lab?

A. No, I did not.

Q. And were you in school prior to being at the Houston Police Department Crime Lab?

A. No. Prior to this job I had a different job.

Q. What'd you do for a job? Was it a

scientific job?

A. It was, yes.

Q. What'd you do?

A. I worked in a laboratory that produced antibodies for research use.

Q. How long did you do that for?

A. Three years.

Q. And prior to that, you're so young, you look so young, were you in school?

A. Yes, I was in school.

Q. Okay. And describe your educational background to the jury.

A. I have a Bachelor's Degree in Chemistry from Texas A&M University. I have undergone four months of training at the HPD Crime Lab in the analysis of controlled substances and other substances as well, as they relate to controlled substances. I have been to numerous seminars and classes, including classes with the FBI and DEA. I'm also personally certified as a fellow in drug analysis by the American Board of Criminalistics.

Q. And, so, all of these -- all of this background you have qualifies you as an expert in drug analysis; is that correct?

A. Yes.

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

A. Yes, I have.

Q. On few or many occasions?

A. Many.

Q. Does that include expert testimony in the courts of this county?

A. Yes, it does.

Q. And because of all your training and experience, is it possible for you to take an unknown substance and analyze it and identify it?

A. Yes, it is.

Q. And can you explain to the jury the first parts of this -- let's back up. How do you obtain the evidence to test it?

A. I receive cases that have been assigned to me by my supervisor from people in the section of our laboratory called Centralized Evidence Receiving.

Q. And you call that CER for short?

A. Yes.

Q. And do you go and retrieve the evidence from CER, or do they bring it to you?

A. It's stored in a vault in CER that only those personnel have access to. So, they gather all

the cases that have been assigned to me. I go to CER to pick up my box of evidence and then take it back to my secure work area.

Q. So, you were assigned the evidence in this particular case; is that correct?

A. Yes.

Q. And let's talk about how you identify unknown substances. What is the first step when you receive evidence from the CER, what do you do with it to start the process of analysis?

A. The first step that I do is I actually do kind of an administrative step first. I make sure all the paper work I have matches the evidence that I have to make sure numbers haven't been transposed over or that kind of thing, and once that I deem everything is correct, then I'll open the evidence and I'll do basically just a visual exam to see what kind of evidence I have. Do I have a liquid? Do I have pharmaceutical tablets? Do I have a powder? That kind of helps guide me on what kind of analysis I need to do.

Q. Do you take note of what contents you're dealing with?

A. Yes, I do. Everything in the case is inventoried and written down in my examination

notes.

Q. Why do you do that?

A. Just so if I have to testify at a later date or if somebody needs to refer to my case file they can pull that folder and somebody with a background like myself can read and figure out everything that I've done to analyze a case, or if I come to court, then I can remember exactly what I did in this case in order to tell you.

Q. So, you did that in this case, too; is that correct?

A. Yes.

Q. Now, after you've inventoried, so to speak, the envelope of evidence, what do you do next?

A. Well, then based on my visual exam, what I actually have in the case, then I'll start my process, which normally involves a series of color tests or screening tests. And then I will follow-up with an instrumental test which can confirm the presence of controlled substance.

Q. Now, so it's kind of a two-step process, a screening and then kind of the actual testing; is that correct?

A. Screening and confirmation.

Q. I'm trying to simplify scientific process, and it's very difficult. But in a case involving Phencyclidine or a liquid drug, what is the first step that you take in the screening process?

A. The first step that I would take in everything, I weigh the evidence, but then when the actual analysis starts in the screening step I would take a small amount of the unknown liquid and add reagents to it. Then I would observe any color change that may or may not happen. And based on those color changes, it gives me as the chemist an indication that a controlled substance may be present.

Q. Did you do that in this case?

A. Yes, I did.

Q. Okay. And what did it tell you?

A. It gave an indication that PCP or Phencyclidine may be present.

Q. So, what did you do next?

A. The second step that I did was what we refer to as a G.C.M.S. That's a gas chromatograph mass spectrometer. It's kind of a two-part instrument, a two in one. That gives me a confirmation of a controlled substance.

Q. So, what is the first step in the process of using the G.C.M.S.?

A. Well, the first step is it's all one instrument. It's kind of divided into two halves, but the way it works is I take a small amount of my unknown substance and inject it into the G.C. part, which is the first part of the instrument. And it uses heat and pressure to separate the components of a mixture. So, instead of one mixture of everything, I get each individual component that is contained in the unknown.

Then the second step is the M.S. part, and that basically takes each separated component and zaps it with a certain specific voltage, and it breaks those molecules apart in a very predictable pattern. And based on the patterns that are produced and the graphs and charts that are printed out, we can use libraries that we have to compare the unknown to the knowns in the libraries to make a comparison and then, therefore, make a confirmation.

Q. So, to kind of simplify it a little bit, you have known graphs of known substances, correct?

A. That's correct.

Q. You compared those known graphs to the

one that was just given to you by the G.C.M.S.?

A. That's correct.

Q. And you say this is the same substance?

A. That's correct.

MS. HORTON: Your Honor, may I approach the witness?

THE COURT: You may.

Q. Ms. Phillips, I'm going to show you what's been marked as State's Exhibit No. 3 and its contents. Do you recognize this?

A. Yes, I do.

Q. And when did you first see this?

A. I first received this evidence on January the 6th of 2012.

Q. And you're referring to your notes just so that the jury knows. You're referring to your notes from chain of custody and things like that; is that correct?

A. Yes.

Q. And how do you recognize this envelope?

A. It has the incident number specific for this case which is 002210812, as well as my handwritten initials.

Q. And that's the incident number relating to this defendant, Robert Jones; is that correct?

A. That's correct.
Q. Is his name actually written on this envelope?
A. Yes, it is.
Q. Now, did you conduct a scientific analysis of the contents of State's Exhibit No. 3?
A. Yes, I did.
Q. And can you explain to the jury how you know that you did an analysis on these contents in this incident number?
A. Well, it's the same procedure. It has the same incident number as well as my handwritten initials on the evidence.
Q. Now, when you receive that evidence, did it come in that plastic bag, or was it in this envelope, freestanding in the envelope?
A. It was freestanding in the envelope.
Q. Okay. How do you know that -- I'm assuming were you involved in the process of putting this plastic bag on this Scope bottle?
A. Yes, I was.
Q. And what makes you decide to that, I guess?
A. It's our procedure now to make sure that all -- not only the external packaging is sealed

when we return it to long-term storage but also that the evidence is sealed inside the envelope, whether it be in a Ziploc or plastic bag or something like that. So, that way it's in a sealed condition when it's removed from the evidence envelope when it goes to court.

Q. And you placed it in this plastic bag. Did you place this sticker on it as well?

A. Yes.

Q. How do you know you placed the sticker on it?

A. It has the incident number and my handwritten initials on it.

Q. And that's A --

A. A.H.P.

Q. A.H.P. And those are your initials. I see at the top there's some more red evidence tape and more initials. Are those your initials as well?

A. Yes, they are.

Q. What does that date mean, the January 6th?

A. The January 6th date, it's the date that I actually sealed the evidence up.

Q. So, you tested this evidence fairly close to the date -- what is this date on the

envelope here mean, January 6th 2012?

A. The -- excuse me. The writing that's on the envelope, the stuff I did not write, that is on there when I receive it. So, I can only assume that it's the officer who makes those notations.

Q. So, you place this evidence back in this envelope and then -- or sorry, in this plastic bag yourself, and then you -- after you've tested it and placed it back inside this envelope; is that correct?

A. That's correct.

Q. Once you placed it in the envelope what do you do with it?

A. Then I'll seal the outer envelope and write my initials and the date that I seal it.

Q. So, you've written on here your initials and then date of January 6th; is that correct?

A. That's correct.

Q. So, was HPD Crime Lab, where this testing was conducted, accredited by the Texas Department of Public Safety at the time that you tested it?

A. Yes, it is.

Q. Is this lab accredited by any other agencies?

A. It is accredited by ASCLD/LAB. A-S-C-L-D/LAB. That's the American Society of Crime Laboratory Directors Laboratory Accreditation Board.

Q. What does that stand for? I mean, you just said what it stands for. What does it mean?

A. Basically, what it is is that it is an organization, and they have a set list of criteria that each crime lab should meet in the minimum or exceed, and we undergo an audit every so many years to make sure we meet or exceed all of these set criteria to know that what we're doing is accepted by scientific community to make sure that we're giving good, solid testimony. We're giving good solid results. It's a way to make sure that our quality is up to par.

Q. Sounds like a quality control?

A. Yes.

Q. Okay. And so other than the analysis that you've conducted, and you see this area here where we opened the envelope, correct?

A. Correct.

Q. Has this been tampered with in any way?

A. Besides the opening now, not to my knowledge.

MS. HORTON: And, Your Honor, at

this time State offers State's 3 into evidence and tenders to opposing counsel for inspection, State's Exhibit 3 and its contents into evidence and tender to opposing counsel for inspection.

MR. AYERS: I don't have any objections, Judge.

THE COURT: Being no objection, State's Exhibits 2 and 3 are admitted.

Q. (By Ms. Horton) So, Ms. Phillips, based on your training and experience, your scientific analysis of State's Exhibit No. 3 and its contents, the Scope bottle and the narcotics inside, what does it contain?

A. That evidence contains PCP or Phencyclidine.

Q. And you stated that you weighed the Phencyclidine; is that correct?

A. That's correct.

Q. How did you go about doing that?

A. Basically, for liquids, I would just take a disposable plastic beaker, put it on a scale, zero the scale out. Then I would pour the liquid into that to get a weight on the liquid.

MS. HORTON: Your Honor, may I approach the witness again?

THE COURT: You may.

Q. I'm showing you what's been marked as State's Exhibit No. 4. Do you recognize this?

A. Yes, I do.

Q. What is it?

A. It is a copy of my laboratory report.

Q. You say it's a copy. Why do you know it's a copy?

A. It's a copy because the official signed paper is then in my laboratory folder, and there are no signatures on that page.

Q. So, yours has signatures on it?

A. Yes.

Q. But it is an exact copy other than the signatures?

A. Correct.

Q. Okay. Was this laboratory report made at or near the time that you tested or analyzed the drugs?

A. Yes.

Q. Okay. And you are identified here as the criminalist; is that correct?

A. That's correct.

Q. On your version of this, you have your signature, correct?

A. Correct.

Q. There is a space over here on State's Exhibit No. 4 where there's another person's signature. Who is that individual?

A. That's James Miller.

Q. What's the purpose of his signature on this form?

A. All of the lab reports that we produce are technically reviewed by a second, qualified analyst. So, all of the reports are technically reviewed before the results are released to make sure that I followed all my proper procedure and I've documented everything that needs to be documented.

MS. HORTON: Your Honor, at this time State offers State's 4 into evidence and tenders to opposing counseling for inspection.

MR. AYERS: I don't have any objection to the lab report.

THE COURT: There being no objection, State's Exhibit No. 4 is admitted.

Q. (By Ms. Horton) Now, on State's Exhibit No. 4 -- okay. You can see State's Exhibit No. 4, the lab report that you created; is that correct?

A. Yes.

Q. I'm going to zoom in a little bit. You describe the items, correct, under item and description?

A. That's correct.

Q. And then you put net weight, and how much was that net weight?

A. 3.1 grams.

Q. And that is the weight you got from doing your scientific process of weighing the evidence; is that correct?

A. That's correct.

Q. And weighing the liquid itself?

A. That's correct.

Q. And right here you say "results, contains Phencyclidine (PCP)"?

A. That's correct.

Q. So, that means that amount of grams contains Phencyclidine?

A. That's correct.

MS. HORTON: Pass the witness.

THE COURT: Mr. Ayers.

MR. AYERS: A few questions, if I might, Judge.

THE COURT: Yes, sir.

CROSS-EXAMINATION

Q. (By Mr. Ayers) Ms. Phillips, correct?

A. Yes.

MR. AYERS: May I approach, Judge?

THE COURT: You may.

Q. The bottle, this little plastic bottle that you tested the contents of, there's still some liquid remaining in it, correct?

A. That's correct.

Q. All right. And you said you took out a small quantity of liquid for your testing purposes?

A. That's correct.

Q. And could you characterize for us -- I mean, you're the experienced one with these measurements, the amount of liquid in this bottle right now, how much is that roughly in grams, would you guess?

A. I don't know. It would definitely be less than the original weight that I had on the lab report.

Q. Well, I'm just trying to get a visual of what this relates to. We're talking about numbers like three grams, 3.1 grams. I mean, 3.1 grams is a small amount of liquid, right?

A. I would say so.

Q. I mean, this whole bottle full would be substantially more than 3.1 grams, right?

A. That's correct.

Q. So, when you got it in the lab it probably had roughly this amount of liquid in it?

A. For PCP it probably had more. What happens with PCP is that between the time that I analyzed it in January and now, which is the end of May, PCP is dissolved in a very volatile solvent called ether. So, what happens with these cases is that ether evaporates very quickly even though it's in a bottle and it's in a sealed Ziploc. So, a loss of weight between when I analyzed it and if we weighed it now, it will be substantially less than three grams.

Q. All right. I understand. So, you're saying the amount in here right now is less than three grams?

A. Yes.

Q. Well, let me ask you. I'm not going to hold you to an exact measurement. I realize you don't have instruments here. But just eyeballing that, what would you guesstimate that is?

A. Maybe about a gram.

Q. All right. So, at most originally this

had maybe three times that amount of liquid?

A. Give or take.

Q. Give or take. So, still not very much. It was not anywhere near full or anything?

A. Correct.

Q. Okay. So, just to give us a visual. All right. Now, the liquid that you tested, you said the liquid itself weighed 3.1 grams, right?

A. That's correct.

Q. And you're very specific in your lab report that that 3.1 grams of liquid contains PCP, Phencyclidine, correct?

A. That's correct.

Q. So, you're not saying it's 3.1 grams of Phencyclidine. It's liquid that weighs that much that contains Phencyclidine?

A. That's correct.

Q. So, you don't isolate it to say this is how much pure PCP is in there?

A. That's correct.

Q. Do you do anything that tells you what that other liquid is, like the body of the liquid? Is it water with PCP? Is it something else with PCP?

A. We don't do any testing to determine

what that other liquid is.

Q. Okay. So, we don't know, but it's just there's a liquid, and this test tells you it contains PCP?

A. That's correct.

Q. But, again, the weight is all of the liquid?

A. Yes.

Q. All right. And then I think you had testified that you actually weigh it without the bottle?

A. That's correct.

Q. And then put it back in, right?

A. Yes.

Q. Then there's some loss of this liquid over time?

A. Yes.

Q. All right. There's some visible residue in there in the bottle.

A. Yes.

Q. Did you do any kind of analysis of that?

A. The plant substance particles that are floating in there are included in the weight because they are in contact with the liquid that contains PCP. So, the weight includes any of those plant

substance particles that may be in there.

Q. All right. You say plant substance particles. Is that based on any analysis or just observation?

A. Just observation.

Q. You look at that, and you're assuming it's a plant substance?

A. Based on a visual exam, yes.

Q. I guess my question is, there wasn't any kind of analysis done on any of those particles to say what they actually are?

A. That's correct.

Q. That's my question.

MR. AYERS: I'll pass the witness, Judge.

THE COURT: Is there redirect examination, Ms. Horton?

MS. HORTON: No, Your Honor.

THE COURT: May the witness be excused by agreement?

MR. AYERS: Yes, Judge.

MS. HORTON: Yes, Your Honor.

THE COURT: Thank you, Ms. Phillips. You are excused. Counsel, let me have the two of you at the bench for a moment.