

1 **(Brief pause)**

2 **THE COURT:** Mr. Leonard went to find
3 the witness. You might see if he's having trouble.

4 There they come.

5 Thank you. Hello, Ms. Rehfuss, come
6 on up, please. Scooch around on that side of the
7 court reporter. And if you will stop and face the
8 jury and raise your right hand, I will give you the
9 oath.

10 **(Witness Duly Sworn)**

11 **THE COURT:** Thank you. Please be
12 seated.

13 **MR. LEONARD:** May I proceed?

14 **THE COURT:** Yes, sir.

15 **JULI REHFUSS,**
16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 **Q.** **(BY MR. LEONARD)** Good morning.

19 **A.** Good morning.

20 **Q.** Would you please introduce yourself to the
21 jury?

22 **A.** Yes. My name is Juli Rehfuss.

23 **Q.** And how are you currently employed?

24 **A.** I work at the Houston Police Department
25 crime laboratory.

1 Q. And what do you do for the Houston Police
2 Department crime lab?

3 A. Currently, I'm a serologist.

4 Q. Okay. And just in general, what is
5 serology?

6 A. Yes. So, serology is basically the study
7 to identify biological material, mainly blood and
8 semen, through different presumptive and confirmatory
9 tests.

10 Q. And what qualifies you to be a serologist?

11 A. I have a degree in biology from North
12 Carolina State University.

13 Q. Okay. What other sorts of education and
14 training do you have?

15 A. At HPD we have a pretty intensive in-house
16 training program that requires us to read scientific
17 articles, forensic textbooks. We also take a series
18 of written tests as well as practical and competency
19 tests. And we have to have kind of a mentorship
20 program for several months where we actually do
21 practice casework with another qualified analyst
22 before we are signed off to do our own casework and
23 then we're shadowed.

24 Q. Okay. Do you have to take any sort of
25 continuing education?

1 A. Yes. We are required to take a
2 proficiency, which is a mind test once a year.

3 Q. Okay. And are those tests -- who are those
4 tests administered by?

5 A. Those tests actually come from an external
6 agency called Collaborative Tests Services who
7 provide us the testing samples.

8 Q. And have you ever failed a proficiency
9 test?

10 A. No, sir.

11 Q. Okay. Is the Houston Police Department
12 crime lab accredited?

13 A. Yes, sir, we are accredited.

14 Q. And explain to the jury the significance of
15 accreditation. What does it mean to be accredited?

16 A. Yes, sir. So, accreditation basically is
17 where a group of qualified forensic analysts from
18 other qualified laboratories come into our
19 laboratory; and they look at every aspect of our lab;
20 the analysts' qualifications, our standard operating
21 procedures, our quality systems, our maintenance.
22 They look at all of our case files. And we have to
23 meet or exceed, I believe, over 140 standards before
24 we are deemed accredited.

25 Q. Okay. And when did the lab receive its

1 accreditation status?

2 A. The laboratory was accredited by ASCLD lab,
3 which is the American Society of Crime Lab Directors
4 Laboratory Accreditation Board, a mouthful. So, we
5 shortened it to ASCLD lab. They were accredited in
6 May of 2005, and the DNA section was accredited in
7 June of 2006.

8 Q. Okay. So, what are you responsible for as
9 a serologist? Just what do you do in general?

10 A. As a serologist, it's my job to take the
11 evidence; and I screen it. So, I'm usually the first
12 person to handle the evidence in the laboratory. And
13 I look for any biological material, the blood or
14 semen, or possible contact DNA on the items.

15 Q. Okay. And when you take this evidence,
16 where are you actually taking it from?

17 A. What usually happens is an officer or an
18 investigator will request certain items of evidence
19 to be processed in any particular case, and he sends
20 over a request to the laboratory. I will receive the
21 request; and then I coordinate with our evidence
22 technician who will, excuse me, go to the HPD
23 property room and retrieve the evidence and then come
24 and bring it back to the lab and puts it into a
25 secured location where I can go get it at a later

1 date.

2 Q. Okay. Now, I want to talk specifically
3 about this case and the reason that you're here
4 today.

5 THE COURT: Perhaps this would be a
6 good stopping point then.

7 MR. LEONARD: Sure.

8 THE COURT: So, we will take a lunch
9 break until 1:00.

10 All rise, please, for the jury.

11 (Jury released)

12 (Recess taken)

13 (AFTERNOON SESSION)

14 (Jury enters courtroom)

15 THE COURT: Thank you so much for your
16 patience. Several things came up over the lunch hour
17 unexpectedly that we had to resolve. So, thank you
18 so much for your patience.

19 Let's see. We need the witness back
20 on the stand.

21 A JUROR: Judge?

22 THE COURT: Yes, ma'am.

23 A JUROR: Can you ask the prosecutor
24 to speak up a little more?

25 THE COURT: Sure. Okay. Thank you.

1 Mr. Leonard, you have kind of a soft
2 voice.

3 **A JUROR:** Yes, he does.

4 **MR. LEONARD:** First time I've heard
5 that, but I will speak up.

6 **THE COURT:** First time you've heard
7 that? Is that what you said?

8 **MR. LEONARD:** Yes, Judge.

9 **THE COURT:** Come on up again. Thank
10 you.

11 **MR. LEONARD:** May I proceed?

12 **THE COURT:** You may.

13 **MR. LEONARD:** Thank you, Judge.

14 **Q. (BY MR. LEONARD)** Okay. Ms. Rehfuss --

15 **THE COURT:** Can I see you on the
16 scheduling matter we just discussed? Can I see
17 you-all again?

18 **MR. LEONARD:** Sure.

19 **(At the Bench)**

20 **THE COURT:** Hi. Is she going to
21 actually be testifying or just that she did a
22 preliminary test or something?

23 **MR. LEONARD:** No. The main witness
24 that's going to be out of town that had death in the
25 family, she is the main DNA expert.

1 **THE COURT:** Okay. So, I was going to
2 say we might could switch her. This won't be very
3 lengthy?

4 **MR. LEONARD:** This won't be very
5 lengthy.

6 **THE COURT:** Okay. Thank you.

7 **MR. LEONARD:** Excuse me. One more.

8 **MR. SMITH:** Sorry. Pardon me.

9 **MR. LEONARD:** And just so that the
10 Court is aware, the very next witness is the witness
11 that has come in from California. So --

12 **THE COURT:** I see. So, just so we got
13 it straight.

14 **MR. LEONARD:** Sure.

15 **THE COURT:** You have one witness from
16 California?

17 **MR. LEONARD:** Right.

18 **THE COURT:** And two witnesses with
19 scheduling problems?

20 **MR. LEONARD:** Right. Yes.

21 **THE COURT:** Does the witness from
22 California have to testify first?

23 **MR. LEONARD:** He doesn't have to?

24 **THE COURT:** Chain of custody?

25 **MR. LEONARD:** He doesn't necessarily

1 have to; and I don't think he will be very extensive,
2 as well. So --

3 **THE COURT:** Okay.

4 **MR. SMITH:** Which one is he?

5 **MR. LEONARD:** Jesse Carver.

6 **THE COURT:** I mean --

7 **MR. SMITH:** What did he do?

8 **MR. LEONARD:** Minor extraction.

9 **MR. SMITH:** Extraction, okay.

10 **THE COURT:** He was just going to -- if
11 worse came to worse, he could stay overnight?

12 **MR. LEONARD:** Right.

13 **THE COURT:** Since the other two have
14 problems?

15 **MR. LEONARD:** Right.

16 **MR. SMITH:** Yeah.

17 **(End of Bench Discussion)**

18 **THE COURT:** There is some scheduling
19 difficulties. If we have to stay until 5:30 or 6:00,
20 would that be a problem for anyone?

21 Okay. About what time would you have
22 to leave?

23 **A JUROR:** By 5:00 because I have to
24 pick up my daughters from school.

25 **THE COURT:** Okay. So, we won't be

1 able to work late. So, we'll just have to rearrange.

2 **MR. SMITH:** Go as we can.

3 **THE COURT:** Huh?

4 **MR. SMITH:** Go --

5 **THE COURT:** There was a witness -- one
6 witness had a death in the family, and another
7 witness has some medical problems. So, they are just
8 things we need to work with. So, we will just keep
9 on going and do the best we can.

10 Okay. Thank you.

11 **MR. LEONARD:** Thank you, Judge.

12 **Q. (BY MR. LEONARD)** Ms. Rehfuss, I want to
13 talk to you about the work you did in this particular
14 case. Earlier you said that the crime lab -- the
15 crime lab's work begins when an officer or an
16 investigator requests that the crime lab does some
17 work; is that accurate?

18 **A.** That is correct.

19 **Q.** Okay. So, in this particular case, who
20 requested that the crime lab do some work in this
21 case? Who was the officer?

22 **A.** According to the case file and this
23 incident number, Officer J.B. Colburn, C-O-L-B-U-R-N,
24 sent over a request to the laboratory dated June 22,
25 2010.

1 Q. Okay. So, he would send a request by
2 e-mail or some other electronic system and let you
3 know, "Okay. I want some DNA testing done on this
4 particular case"?

5 A. Yes, sir. It was our internal HPD system.

6 Q. Okay. Once your lab has been notified that
7 this investigator -- that Officer Colburn wanted DNA
8 testing, what was done by your lab?

9 A. Normally, in our lab our case manager would
10 receive this request and go ahead and look into the
11 procedure room to see what items of evidence are
12 there to be tested to make sure that they coincide
13 with the request; and then she would assign it to a
14 screener, which would be me in this case.

15 Q. Okay. And once you were -- and what items
16 did she identify that needed testing in this case?

17 A. Well, per the officer's request, the first
18 item was clothing of the complainant, Imani Hilton.
19 And then a second request came for a piece of brown
20 carpet to be tested. And then a third request was
21 made to process the buccal swabs of suspect, Rodney
22 Milum, Jr.

23 Q. Okay. What happens? How does the crime
24 lab receive that evidence from the property room?

25 A. Normally, once the request is made and a

1 case file is generated, our evidence technician would
2 go to the property room and pick up the items that I
3 have requested her to pick up per the investigator's
4 request; and then she would make sure that the
5 incident number, which is the unique identifier,
6 correlates to the paperwork and the evidence and then
7 make sure that it's sealed properly coming from the
8 property room; and then she would transport it to HPD
9 and put it in our evidence storage.

10 Q. Okay. What would happen? What sorts of
11 steps or safeguards are taken by this person who
12 transports the evidence from the HPD property room to
13 the crime lab? What sorts of steps do they take to
14 make sure that everything is intact, nothing has been
15 tampered with? What do they do?

16 A. Well, all of the evidence should be in the
17 property room sealed; and a proper seal is either
18 evidence tape, which is the red evidence tape that
19 you see normally, or a piece of packing tape, as long
20 as it's secured; and whoever sealed that item would
21 put their initials on it and sometimes a date.

22 Q. Okay. And if there was anything unusual,
23 if a seal was broken, if something appeared to be
24 tampered with, what would happen?

25 A. Well, the evidence technician would note

1 that if the item is sealed or not properly sealed at
2 the property room before she would transport it to
3 HPD. And if it's not properly sealed, then we have
4 steps in place to either contact the originating
5 officer who submitted the item; and we would call him
6 back to properly seal the item before we take
7 possession of it. And in this case, it seems that
8 all of the items were sealed when our evidence
9 technician took them from the property room and
10 brought them to HPD.

11 Q. Okay. So, once the property or the
12 evidence -- in this case the panties, the carpet
13 sample, and the buccal swabs -- once they are
14 transported from property room to the HPD crime lab,
15 how did you come into possession of them?

16 A. Well, once the items are received into our
17 secured evidence storage, our evidence technician
18 would notify me that the items are here to be
19 processed; and then I would go into -- I would take
20 the key and go into the evidence storage and retrieve
21 my items. And I also noted on our chain of custody.

22 Q. Do you do any sort of inspection or
23 checking out the property or the evidence?

24 A. Yes, sir. When I receive the evidence from
25 our evidence storage, I will make a note if the boxes

1 or envelopes or sexual assault kits are properly
2 sealed when they come into my possession.

3 Q. And were the items properly sealed in this
4 case?

5 A. Yes, sir.

6 Q. Okay. When did you first receive these
7 items?

8 A. I took possession of a sealed sexual
9 assault kit, which was property room 001; a sealed
10 box containing a carpet sample, which is property
11 room 002; and a sealed envelope containing buccal
12 swabs, which is listed as property room 003 -- I took
13 possession of these items on August 26, 2010.

14 Q. Okay. And when did you begin your -- your
15 analysis or your process in this particular case?

16 A. I processed all three of the items the same
17 day.

18 Q. Okay. Let's talk about that process. What
19 was the first thing you did?

20 A. The first thing I did was the sexual
21 assault kit of Imani Hilton. I will go ahead and
22 receive it. I make sure that the incident number is
23 correct to the paperwork that I have, that the name
24 is matching; and I will make sure that the item
25 number is correlating to my paperwork, make sure it's

1 all the same.

2 Q. Okay. And before you begin your testing,
3 do you take any kind of precautionary steps or
4 safeguards to ensure that there is no
5 cross-contamination or mixup of any of the evidence
6 that you're going to be examining?

7 A. Yes, sir. We have a quality assurance
8 protocol that we follow in the laboratory. It's
9 pretty standard in most forensic labs. Before I
10 start any work and I make sure that my evidence is
11 correct, I will go ahead and decontaminate my work
12 space with a bleached solution.

13 Also, decontamination of all utensils,
14 scalpels, scissors, tweezers, my pens, pencils,
15 anything that we have with a solution called DNA
16 Away. And then we use disposal lab coats. I wear a
17 face mask. And we change our gloves frequently.

18 Q. Okay. What did you do with the sexual
19 assault kit that contained the panties? What did you
20 do with that particular piece of evidence?

21 A. We -- first thing I do after I make sure
22 that all of the information is correct on the
23 evidence, I will note if it's properly sealed, which
24 in this case it was, and note what type of sexual
25 assault kit it is.

1 I will note if there is a medical
2 report listed in the sexual assault kit, and there
3 was. I will note the medical exam date that is
4 listed on the paperwork, and then I will go and
5 inventory what's in the sexual assault kit.

6 Q. Okay. And what was in this sexual assault
7 kit?

8 A. In this particular sexual assault kit,
9 there was actually only one item, which was a pair of
10 panties.

11 Q. Okay. Let's talk about those pair of
12 panties. What -- what were you looking for? What
13 was your job with regards to these pair of panties --
14 to this pair of panties?

15 A. With the pair of panties, I was looking for
16 the presence of semen.

17 Q. Okay. How do you detect whether or not
18 there is semen present on the panties that you were
19 inspecting?

20 A. Well, excuse me, with clothing, sometimes
21 semen is very hard to visualize. So, what we do is
22 we have a series of presumptive and confirmatory
23 tests that we go through. Presumptive tests, they
24 are very sensitive; but if they're not speculative,
25 they just give us an indication that a body fluid

1 might be there.

2 In this case, with the panties, I do
3 an ALS exam, which is an alternate life source. So,
4 I'm sure you have seen it on TV. They block out the
5 room with the orange goggles; and they have the UV
6 light, basically because semen will fluoresce under
7 UV light.

8 There are a lot of other items that
9 fluoresce, as well, which is why we use it more as an
10 investigative tool to give us an idea of whether to
11 do further testing. You know, bleach detergents,
12 anything like that can also fluoresce. And in this
13 case the panties, the crotch area, was positive for
14 fluorescence, so it did give me indication.

15 So, then what I will do, I will do
16 another presumptive test called the acid phosphatase.
17 And acid phosphatase is an enzyme in semen, high
18 concentrations in semen, which is why we look for it.
19 And it -- basically I take a piece of filtered paper
20 and I will spray it with sterile water and I will
21 press out the crotch area of the panties. And
22 then -- I don't test the item directly. I will go
23 ahead and put my solution on the filter paper. And
24 if I get a color change, an immediate color change,
25 it turns bright purple, which gives me an indication

1 that acid phosphatase is in the crotch area. And in
2 this case I did get an indication that in one small
3 section of the crotch area, it was positive. It
4 turned purple.

5 Q. Okay. So, basically, those tests that you
6 run -- or that you ran gave you an indication that
7 there may be some sort of bodily fluid, semen or some
8 other substance that may contain DNA?

9 A. Yes, sir.

10 Q. Okay. And once you have an idea that DNA
11 may be present, what did you do next?

12 A. In this case with the panties, the area
13 that gave me the positive presumptive test was pretty
14 small. It was approximately half an inch by half an
15 inch, so kind of a circle. And I didn't want to
16 consume any more of that sample for a confirmatory
17 test. So, I actually cut out the stain; and I took
18 approximately half a centimeter -- or, sorry -- yes,
19 half a centimeter cutting from that circle which is
20 roughly the size of your pinky nail; and I put that
21 into a tube for DNA analysis.

22 Q. Okay. And where does that tube go?

23 A. That tube will be packaged into a sealed
24 envelope and put into our walk-in freezer, which is a
25 secured evidence storage.

1 Q. Okay. And at some later time some other
2 technician, I'm presuming, will have access to that?

3 A. Yes. The DNA technician takes over from
4 there.

5 Q. Okay. And was that all you did with the
6 panties?

7 A. That is it, yes, sir.

8 Q. Okay. What about the carpet? What did you
9 do with the carpet?

10 A. Excuse me. The piece of carpet I tested in
11 a similar fashion with ALS, alternate light source.
12 And, as well, I took it on to acid phosphatase test.
13 So, I pressed out the positive areas on the carpet
14 with that, with the filter paper. And I tested the
15 filter paper, and it gave me a strong indication of
16 possible semen.

17 And since I had more to work with,
18 more sample in the carpet -- it was approximately
19 11 inches by 13 inches, the cutting; and there were
20 three distinct areas that gave me a positive
21 presumptive test for semen. So, I took a small
22 cutting from one of the positive areas; and I took it
23 on to confirmatory testing for the presence of sperm.

24 Q. Okay. And what did you find there?

25 A. So, the carpet is my item 2; and the stain

1 that I took on to confirmatory testing was 2.1. And
2 basically, what I do, I take a small cutting in the
3 carpet. I put it into a tube and I will add a buffer
4 solution and I will sonicate it for a while.

5 So, we put it in a water bath; and we
6 sonicate it, almost like a jewelry cleaner. And it
7 helps to dislodge any cells that are remaining on the
8 carpet sample and put it into solution. I will take
9 a portion of that, and I will put it on a P30 card,
10 which is -- P30 is basically a protein secreted by
11 prostate glands and found high concentrations in
12 semen.

13 So, it works mostly like a pregnancy
14 test. We put the sample in a well, and it will
15 migrate through the card. And there is an internal
16 control with it to let me know the test is working
17 properly. And if I get a dark pink line, I know that
18 P30 is present in the sample.

19 Q. And what was done with the sample that you
20 took out? Did you store that? Did you store that,
21 as well?

22 A. Yes. So, after the P30 test, we also have
23 a confirmatory test for the presence of sperm where I
24 visually look under the microscope to see sperm
25 heads; and I did that as well here.

1 Q. Okay. And what did you see with regards to
2 the sperm heads that you saw on the microscope?
3 Anything unusual?

4 A. Well, from the cutting that I took from the
5 carpet, I actually note that they were too numerous
6 to count.

7 Q. What does that mean?

8 A. Roughly, when we -- we are dealing with a
9 very small liquid amount, I will put it on a slide;
10 and I will heat affix it. So, basically, I just heat
11 it up and make sure that the cells stick through the
12 slide. And then we have a stain called a Christmas
13 tree stain, and it's red and green. The red dye
14 stains the sperm heads and the green will stain any
15 skin cells that are on the slide or tails on the
16 sperm and that helps me visualize it underneath a
17 microscope. And in this case, when I looked under
18 the microscope, there were just too many to count.

19 Q. Okay. What is that an indication of?

20 A. There was a high concentration of sperm
21 heads in that sample.

22 Q. Okay. What did you do next?

23 A. Well, from there, since I got a positive
24 confirmatory test for sperm, I will go ahead and take
25 another cutting right next to where I cut for my

1 test; and I will put that cutting into a tube and put
2 it into the evidence storage for DNA extraction.

3 Q. Okay. And was that all you did with the
4 carpet?

5 A. Yes, sir.

6 Q. And what about -- you also tested two
7 separate sets of buccal swabs in this case. Tell us
8 about the first set that you -- or that you examined.
9 I'm sorry.

10 A. The first set of buccal swabs I received,
11 they were Item 3; and they were the -- an envelope
12 containing known buccal swabs from Rodney Milum, Jr.
13 And I didn't really do any testing on those. I just
14 inventoried what was in the envelope, made sure that
15 the name on the outside envelope matched what was
16 actually inside the box and they were said to contain
17 a known buccal swab of Rodney Milum, Jr.

18 I actually took one swab. I cut the
19 cotton tip off of the stick and I put it into tube
20 for DNA extraction.

21 Q. Okay. What about the second set of buccal
22 swabs? What did you do with those?

23 A. Let's see. In February of 2011, I received
24 Item 4, which was a sealed envelope containing the
25 known saliva swabs of Imani Hilton, and basically did

1 the same thing; inventoried it, made sure the names
2 matched up. And I took one swab, removed the cotton
3 tip from the stick, placed it into a tube, and put it
4 into the evidence storage for DNA extraction.

5 Q. Okay. Now, let me ask you, Item No. 3, the
6 buccal swab -- known buccal swabs of the defendant,
7 Rodney Milum, at any point during your testing or
8 analysis, did that item ever come into contact with
9 any of the other items that you were testing
10 throughout your analysis?

11 A. No, sir. They were processed at a separate
12 time than any of the evidence; and we also follow the
13 decontaminations procedure like I described before,
14 with the bleaching of my workstation. We lay down
15 clean butcher paper, change gloves, my coat, and my
16 mask.

17 Q. Okay. Are these items, for instance, like
18 ever laid out on the same table at the same time?

19 A. No, sir. We don't have one piece of
20 evidence out at the same time as another.

21 Q. Okay. Was there anything else that you did
22 with regards to this case?

23 A. No, sir.

24 Q. Okay.

25 **MR. LEONARD:** I pass the witness.

1 **THE COURT:** Thank you.

2 Cross-examination?

3 **MR. SMITH:** Yes, Judge.

4 **CROSS-EXAMINATION**

5 **Q.** **(BY MR. SMITH)** The first thing you do is
6 you check -- is you take out the -- you take out the
7 items of evidence and examine them; is that correct?

8 A. After I make sure that all of the evidence
9 is correct.

10 **Q.** Right. In other words, you check to make
11 sure that you got the proper evidence number --

12 A. Yes, sir.

13 **Q.** -- right?

14 And you do not open it up right away.
15 You have to first examine the seals; is that right?

16 A. Yes, sir.

17 **Q.** Everything was sealed properly in this
18 case; is that correct?

19 A. Yes, sir.

20 **Q.** Okay. What is the first item that you open
21 up?

22 A. We always try to process the unknown items
23 from our known samples. So, in this case I processed
24 the sexual assault kit from Imani Hilton.

25 **Q.** Okay. So, that was the first item that

1 you -- that you processed?

2 A. Yes, sir.

3 Q. And you do not open any other items up when
4 you process that one; is that right?

5 A. Correct.

6 Q. Okay. Now, the -- you stated that you
7 performed a presumptive test on the panties for
8 the -- to locate semen; is that correct?

9 A. Yes, sir.

10 Q. You did not do any confirmatory test; is
11 that right?

12 A. That's right.

13 Q. The reason you did not do any confirmatory
14 test is because the amount found was so small; is
15 that right?

16 A. Yes, sir. The quantity was not sufficient
17 for a confirmatory testing.

18 Q. Now, it's true that the test that you have
19 performed will also test positive if there is a
20 presence of vaginal fluids; is that right?

21 A. Yes, sir.

22 Q. And you can't really say that there was
23 semen on that particular item because you didn't do
24 the confirmatory testing; is that right?

25 A. Yes, sir. That's why we say it was just

1 indicated.

2 Q. Okay. And so, then you process that
3 particular -- you process that particular item; is
4 that right?

5 A. The panties?

6 Q. Yes.

7 A. Yes, sir, I processed them.

8 Q. Okay. And as you're doing that, you're
9 doing that on clean butcher paper; is that right?

10 A. Yes, sir.

11 Q. And under sterile conditions, right?

12 A. Yes, sir.

13 Q. Now, when -- let's talk a little bit about
14 sterile conditions. Because of the nature of DNA
15 evidence, you have -- your laboratory has to be
16 extremely sterile; is that right?

17 A. Yes, sir.

18 Q. And, in fact, it has to be more sterile
19 than a surgical operating room, correct?

20 A. I wouldn't know about that.

21 Q. Okay. But -- and it's true that the
22 Houston DNA lab has had problems with that in the
23 past; is that right?

24 A. Yes, sir.

25 Q. And as matter of fact, the Houston DNA lab

1 lost its accreditation back in around 2008 or so,
2 wasn't it?

3 A. No, sir.

4 Q. How long ago was it?

5 A. We have never lost our accreditation.

6 Q. Okay. Well, there was a time when you quit
7 processing evidence; is that right?

8 A. What -- I don't know what time frame you're
9 referring to.

10 **THE COURT:** Excuse me. How is that
11 relevant, what happened years ago at the lab?

12 **MR. SMITH:** Okay, Your Honor. I will
13 move on to something else.

14 **THE COURT:** Okay. Thank you.

15 Q. **(BY MR. SMITH)** Now, you performed --
16 basically, you performed the alternate light source
17 and acid phosphatase test on the panties; is that
18 correct?

19 A. Yes, sir.

20 Q. Okay. As we said before, that is -- that
21 can -- that he -- those items can test positive for
22 vaginal fluids just the same, right?

23 A. Yes, sir. That's why these are presumptive
24 tests.

25 Q. Okay. So, it was a very, very small area

1 that you found; is that correct?

2 A. On the panties?

3 Q. Yes, ma'am.

4 A. Yes, sir.

5 Q. Half-inch-by-half-inch square?

6 A. Approximately.

7 Q. Okay. And that concluded your examination
8 of panties as with regard to trying to find sperm; is
9 that right?

10 A. Yes, sir. I stopped at the acid
11 phosphatase test.

12 Q. Did you do -- you did test to determine if
13 blood was found on the panties; is that right?

14 A. No, sir. There was no blood testing on the
15 panties.

16 Q. Okay. Were there any -- did you do any
17 kind of preliminary examinations to see if there was
18 any blood on the panties?

19 A. No, sir. The only thing I noted were there
20 were brown stains in the crotch area.

21 Q. Okay. And -- but no indication of whether
22 it was blood or not?

23 A. No, sir.

24 Q. Okay. Now, is -- in the -- in the
25 process -- when you process DNA testing, it's --

1 you're able to determine whether or not something is
2 blood or semen or vaginal fluids; is that right?

3 A. No, not in particular. The DNA is just
4 looking for newly-created cells.

5 Q. Okay. Now -- and newly-created cells
6 basically means a cell that has had a nucleus in it,
7 right?

8 A. Yes, sir. That's where the DNA is found.

9 Q. And that was going to be my next question.
10 So, the next thing that you do is you take the
11 samples that you have and then you reduce them; is
12 that right?

13 A. Well, I didn't do any of the DNA. I just
14 screened it for the presence of semen, and then the
15 DNA extraction person would do that.

16 Q. Okay. But you put the samples that you
17 take -- you collect them, and put them in tubes; is
18 that right?

19 A. Yes, sir.

20 Q. Okay. And as you collect and put them into
21 tubes, they are -- you make sure that you seal that
22 up before you -- before you move on to any other type
23 of evidence; is that right?

24 A. Yes, sir.

25 Q. Okay. So, once you concluded your

1 examination, okay, on the panties, then you package
2 the -- package them up; is that correct?

3 A. Yes, sir.

4 Q. And you put them away, right?

5 A. Yes, sir.

6 Q. Sealed to make sure that it is safe, right?

7 A. Yes, sir.

8 Q. And then you sterilize your work area,
9 right?

10 A. Yes, sir.

11 Q. And you did that, correct?

12 A. Yes, sir.

13 Q. Okay. Then after sterilizing the work
14 area, you move onto the next item; is that right?

15 A. Yes, sir.

16 Q. Okay. The next item was the carpet; is
17 that right?

18 A. Yes, sir. Item 2.

19 Q. Okay. And there you go through the same
20 process again; is that right?

21 A. The testing process?

22 Q. Well, yes. The first thing you do is after
23 sterilizing the area, then you open the box, right?

24 A. Yes, sir.

25 Q. And then you take out the item, correct?

1 A. Correct.

2 Q. Do your -- do your initial test to see if
3 there is any semen there, right?

4 A. Yes, sir.

5 Q. And there was a response, correct?

6 A. Yes, sir.

7 Q. Now, this time you did the confirmatory
8 testing; is that right?

9 A. Yes, sir.

10 Q. And that confirmatory tested concluded that
11 semen was present; is that right?

12 A. Yes. Sperm was visualized.

13 Q. And at this point in time, of course, there
14 is no items of evidence that are open in your lab?

15 A. Not in my --

16 Q. In your work area. I apologize. And that
17 would be a violation of procedure, in other words, if
18 you were to do something like that, right?

19 A. Yes, sir. That is not protocol.

20 Q. Okay. Now -- so, then you process a very
21 small portion of the stain; is that right?

22 A. Well, I processed the entire piece of
23 carpet.

24 Q. Okay. And when you do that, do you take
25 like a swab and then wipe the entire -- the entire

1 area of the carpet?

2 A. No, sir. I believe I just pressed it out
3 with filter paper and then tested the filter paper.

4 Q. Okay. And the filter paper came back
5 positive for semen; is that right?

6 A. It gave me a positive color indication.

7 Q. Once again, this is just the initial test,
8 right, not the confirmatory test?

9 A. We start off with the presumptive test, and
10 that was positive.

11 Q. Okay. And did you test the -- did you test
12 the carpet for blood?

13 A. No, sir, I did not.

14 Q. Okay. So, you saw no indications of blood
15 anywhere, right?

16 A. There was one small brown stain on the back
17 of the carpet, but I didn't note any reddish brown
18 stains on the front piece.

19 Q. Okay. And you did not test that to see if
20 it was blood or anything, right?

21 A. No, sir.

22 Q. Okay. Going back to the panties, okay, you
23 saw no indication -- saw no indication of blood on
24 the panties, right?

25 A. There were no reddish brown stains on the

1 panties.

2 Q. And because there was none, you did not
3 test for any -- you did not test for blood; is that
4 correct?

5 A. I did not test for blood.

6 Q. Okay. And that was because you saw no
7 reddish brown stains?

8 A. That is correct.

9 Q. Okay. Did you do testing for trace
10 evidence?

11 A. On the panties and the carpet fibers, they
12 were tape lifted for possible trace evidence.

13 Q. Possible trace evidence being things like
14 dirt; is that right?

15 A. Trace evidence can be a myriad of things,
16 possible hairs or fibers or dirt or debris.

17 Q. And both items tested positive for trace
18 evidence; is that correct?

19 A. Well, we don't do trace analysis in our
20 laboratory. We just want to collect as much evidence
21 as we can at the time when we have that item out.

22 So, we will go ahead and tape lift it; and we will
23 secure that for possible analysis down the road.

24 Q. Okay. And when you say that you do a tape
25 lift, basically what you do is you take a piece of

1 tape and secure it down on top of the item; is that
2 right?

3 A. Yes, sir. There are little manufactured
4 already tape squares, and we just take it and press
5 it on the item to collect whatever possible trace
6 could be on there. And then we will seal that up
7 into a separate envelope and package it back with the
8 evidence in case testing is needed at a later date.

9 Q. And you can look -- you can look at the
10 adhesive side of the -- that particular tape; and you
11 can see if it found anything, right? You can see if
12 there is anything on the adhesive side of the tape;
13 is that right?

14 A. Yes, sir. It's clear tape.

15 Q. Okay. And you saw trace evidence on the
16 tape for the panties, correct?

17 A. Well, I just see that trace is collected
18 because I'm trained -- I'm not a trace analyst. So,
19 I can't really say what is trace and what is not. We
20 just collect it and preserve it.

21 Q. But you saw something on the tape, right?

22 A. I don't have anything in my notes as to
23 what I saw. I just see that trace evidence was
24 collected.

25 Q. Okay. And then you did the same thing for

1 the carpet; is that correct?

2 A. Yes, sir.

3 Q. Okay. And basically trace evidence is
4 different from semen and blood, right?

5 A. Yes, sir.

6 Q. If after you have examined the carpet, you
7 then put it back and seal it up; is that correct?

8 A. Yes, sir.

9 Q. And then -- and then put it away, right?

10 A. Yes, sir.

11 Q. Put it back where -- back under secure
12 conditions?

13 A. Yes, sir, back into its original box.

14 Q. And then put it away to make sure it's not
15 in the area anywhere, right?

16 A. Yes, sir.

17 Q. And then you, once again, sterilize the
18 area; is that right?

19 A. That's correct.

20 Q. And then after you sterilize the area,
21 that's when you perform tests on the buccal swabs,
22 correct?

23 A. Well, I didn't test them. I just processed
24 them and put them into a tube.

25 Q. Okay. But you don't do that while the

1 evidence items are out; is that correct?

2 A. That's correct.

3 Q. Now, the reason that you take such care
4 under these situations is you want to make sure that
5 evidence is not contaminated, correct?

6 A. Yes, sir.

7 Q. And evidence can be contaminated if it
8 comes into contact with each other, right?

9 A. It's possible.

10 Q. And evidence can be contaminated when it's
11 collected, correct? In the field, right?

12 A. That's possible.

13 Q. It can be collected -- it can be
14 contaminated in the lab if you're not careful, right?

15 A. Yes, sir.

16 Q. And evidence can also be contaminated
17 before collection, can't it?

18 A. I don't really understand the question.

19 Q. Well, if the two items were to come in
20 contact with each other before collection, it's
21 possible that cells on either item can transfer to
22 the other; is that right?

23 A. It is possible, just depending on what
24 items we're talking about and what kinds of samples.

25 Q. Well, let's talk about panties and carpet.

1 Okay? If the two were to contact each other before
2 they were collected into evidence, it could cause
3 transfer of whatever DNA that either sample has,
4 right?

5 A. That is possible.

6 Q. And it's possible for cells that are on the
7 carpet to be transferred to the panties, right? If
8 they came into contact with?

9 A. It kind of depends on what type of cells
10 you're talking about. Like skin cells versus sperm?

11 Q. We're dealing right here with -- with sperm
12 cells and epithelial cells, right?

13 A. Yes, mainly.

14 Q. Okay. Epithelial cells will transfer if
15 the two items contact each other, right?

16 A. That's possible.

17 Q. And let's kind of enlighten the jury about
18 what epithelial cells are. Those are basically cells
19 that line the inside of your mouth, the area of the
20 vagina, maybe the inside of the urethra; is that
21 right? Outer linings of the mucous areas of the
22 body, right?

23 A. Well -- well, the epithelial cells are
24 basically skin cells; and they do contain a nucleus.
25 It could be from -- yeah, epithelial cells are

1 basically skin cells. And then the other cells you
2 have from your mouth would be saliva or vaginal
3 secretion, or blood, or --

4 Q. Okay.

5 A. -- semen.

6 Q. Okay. Sperm cells are different from that;
7 is that correct?

8 A. Yes, sir.

9 Q. Matter of fact, you can -- you can
10 differentiate between -- and I'm not saying you, but
11 I'm saying it is possible to differentiate between
12 epithelial cells and sperm cells in the -- in the
13 examination process; is that right?

14 A. Not necessarily. The only way you could
15 determine if it's a sperm cell is if you visualize it
16 underneath a microscope.

17 Q. Okay. Now --

18 **MR. SMITH:** I pass the witness, Your
19 Honor.

20 **THE COURT:** Any redirect?

21 **MR. LEONARD:** Nothing further from
22 this witness, Judge.

23 **THE COURT:** Thank you.

24 May she be excused then?

25 **MR. LEONARD:** She may from the State.

1 **MR. SMITH:** She may, Your Honor.

2 **THE COURT:** Thank you so much. You're
3 released as a witness.

4 **THE WITNESS:** Thank you, Judge.

5 **THE COURT:** Thank you.

6 **(Witness released)**

7 **THE COURT:** Your next witness?

8 **MR. LEONARD:** State calls Jessie
9 Carver.

10 **THE COURT:** Thank you. Jesse Carver.

11 **THE BAILIFF:** Judge, this witness has
12 not been sworn.

13 **THE COURT:** Officer Carver, come up
14 please; and come around this way. And if you will
15 stop and look at the jury and raise your right hand,
16 I will give you the oath.

17 **(Witness Duly Sworn)**

18 **THE COURT:** Thank you. Please have a
19 seat.

20 **MR. LEONARD:** May I proceed?

21 **THE COURT:** Yes, sir.

22 **MR. LEONARD:** Thank you.
23
24
25

1

JESSE CARVER,

2

having been first duly sworn, testified as follows:

3

DIRECT EXAMINATION

4

Q. (BY MR. LEONARD) Good afternoon,

5

Mr. Carver.

6

A. Good afternoon.

7

Q. Would you please introduce yourself to the

8

jury, please?

9

A. My name is Jesse Carver.

10

Q. And how are you currently employed?

11

A. I work for the San Diego County Sheriff's

12

Department.

13

Q. Okay. Is that San Diego, California?

14

A. Yes, it is.

15

Q. Okay. How long have you been with the San

16

Diego County Sheriff's Department?

17

A. I have been there just short of two years

18

now.

19

Q. Okay. And where were you currently --

20

where were you employed before you worked for the San

21

Diego County Sheriff's Department?

22

A. Before then I worked for the Houston Police

23

Department crime laboratory.

24

Q. Okay. And what did you do for the Houston

25

Police Department crime laboratory?