

1 JIM BOLDING,
2 was called as a witness by the State and, having
3 been duly sworn, testified as follows:

4
5 DIRECT EXAMINATION

6
7 BY MR. HAWKINS:

8
9 MR. DOWELL: I would stipulate as to Mr.
10 Bolding's qualifications, Your Honor.

11 THE COURT: All right.

12 MR. HAWKINS: Your Honor, I would like
13 the jury to hear his qualifications.

14 THE COURT: No, sir. If he is going to
15 stipulate his qualifications, I am not going to go
16 through it.

17 MR. HAWKINS: Judge, if he is going to
18 stipulate his qualifications, I would like him to
19 stipulate Mr. Bolding's -- may we approach the
20 Bench?

21 THE COURT: Yes, sir.

22 (The following proceedings were had at
23 the Bench:)

24 MR. HAWKINS: I am saying that he has a
25 biology major and minor in chemistry and has done

1 P.H.D. work at the University of Texas in
2 bio-chemistry.

3 THE COURT: Can you stipulate that?

4 MR. DOWELL: Sure, if it's all true.

5 (At this time the proceedings at the
6 Bench were concluded.)

7 THE COURT: All right, ladies and
8 gentlemen of the jury, what a stipulation means is
9 when he stipulates something, that means there is
10 no disagreement about it, and so you don't have to
11 go through the rather lengthy process of proving
12 something up. What they are about to stipulate is
13 Mr. Bolding's qualifications as a chemist in that
14 field and related fields.

15 MR. HAWKINS: Your Honor, the State
16 would offer at this time a stipulation as to Mr.
17 Bolding, that he obtained a degree from Texas
18 Southern University with a major in biology and a
19 minor in chemistry. He has done graduate work in
20 biology and bio-chemistry, obtaining a master
21 degree, and furthermore he has also completed some
22 doctorate type work towards a P.H.D. in the field
23 of bio-chemistry.

24 THE COURT: Is that your stipulation,
25 Mr. Dowell?

1 MR. DOWELL: Yes, Your Honor.

2 THE COURT: And your client's
3 stipulation?

4 THE DEFENDANT: Yes.

5 THE COURT: Very well.

6 Q. (By Mr. Hawkins) Mr. Bolding, where do
7 you work?

8 A. At the City of Houston crime laboratory.

9 Q. How long have you worked there?

10 A. Just over nine years I have been so
11 employed.

12 Q. What do you do there at the crime lab?

13 A. I am the supervisor of the serology
14 section of the crime laboratory.

15 Q. Are you also the supervisor for Karen
16 Osmond and Christie Kim at the H.P.D. crime lab in
17 the serology section?

18 A. Yes, I am.

19 Q. Mr. Bolding, I would like to ask you if
20 you were involved in obtaining some evidence in a
21 rape case involving a victim named Marisela
22 Salazar?

23 A. Yes, sir, I was.

24 Q. Specifically, on April 21st of 1987 were
25 you involved in obtaining some evidence from a

1 person named Isadora Yanez?

2 A. Yes.

3 Q. And was he brought to the Houston crime
4 lab for this evidence to be obtained?

5 A. Yes, sir, he was.

6 Q. And was there a -- did Mr. Yanez give a
7 written -- pardon me -- a consent for you to take
8 blood and hair and saliva from him?

9 A. Yes, sir, he did.

10 Q. Did you bring those items with you today?

11 A. Yes, sir, I did.

12 MR. HAWKINS: Pull those out for me,
13 please. May I approach the witness?

14 THE COURT: Yes, sir.

15 Q. (By Mr. Hawkins) I will show you first
16 what's been marked as State's Exhibit 22-C and ask
17 you to examine that for me.

18 A. Yes, sir.

19 Q. Do you recognize that?

20 A. Yes, sir, I do.

21 Q. Okay, could you tell the jury what 22-C
22 and it's contents are, please?

23 A. It's a plastic bag that contains a small
24 plastic vial in which I placed the saliva that I
25 obtained from Mr. Yanez.

1 Q. And did you also label the outside of
2 the envelope, State's Exhibit 22-C?

3 A. Yes, sir, I did.

4 Q. What did you put on that?

5 A. I put our lab number, L-87- 2120 and my
6 initials.

7 Q. Is that a saliva sample from Isadora
8 Yanez?

9 THE COURT: Why don't you do all of
10 those at once?

11 MR. HAWKINS: Yes, ma'am. I am just
12 trying to be careful.

13 THE COURT: We are going to recess in
14 thirty minutes, and I hate for this man to have to
15 come back tomorrow.

16 MR. HAWKINS: Yes, ma'am.

17 Q. (By Mr. Hawkins) Let me show you what's
18 been marked as State's Exhibit 22-B.

19 A. Yes, sir.

20 Q. And ask if you were present when
21 that was obtained?

22 A. Yes, sir, I was.

23 Q. And tell me what that is.

24 A. It's is a vial of blood that was drawn
25 from Mr. Yanez.

1 Q. And was that blood drawn by a qualified
2 technician?

3 A. Yes, it was.

4 Q. Let me show you what's been marked as
5 State's Exhibit 22-G -- pardon me -- 22-D, E, F
6 and G and ask if you would look at those for me?

7 A. Yes, sir.

8 Q. Have you seen those before?

9 A. Yes, sir, I have.

10 Q. Okay, could you tell the jury what those
11 are, please?

12 A. Those are samples of hairs, both loose
13 and pulled, from the head and pubic area of Mr.
14 Isadora Yanez.

15 Q. As is to State's Exhibits 22-D through G,
16 did you yourself collect that particular evidence?

17 A. Yes.

18 Q. Can you tell the jury how you collected
19 the evidence contained within State's Exhibits
20 22-D through G?

21 A. The hair samples I asked Mr. Yanez to
22 undergo the procedures that we ask all potential
23 individuals giving hair samples to. I asked him
24 to brush any loose hairs away from his body in
25 both the head and pubic areas.

1 Q. Were those collected, as far as the
2 loose head hairs brushed from his hair?

3 A. Yes.

4 Q. And were those placed inside State's
5 Exhibit 22-D?

6 A. Yes, sir, they were.

7 Q. As to the loose pubic hair, was it
8 placed inside what's been marked at State's
9 Exhibit 22-F?

10 A. Yes, sir, it was.

11 Q. What other hairs were taken from him?

12 A. From the head area I asked that he use
13 his index finger and thumb and pull from the roots
14 any hairs from five places on his head-- hairs
15 that were typical of his head hair.

16 Q. And did you place those inside of what's
17 been marked as State's Exhibit 22-E?

18 A. Yes, sir, I did.

19 Q. What about the pubic hairs? Did you
20 have those pulled?

21 A. Yes, sir. I asked that he use also his
22 index finger and thumb and pull from three
23 different spots in his groin area pubic hairs.

24 Q. And were those placed inside State's
25 Exhibit 22-G?

1 A. Yes, sir, they were.

2 Q. As to State's Exhibits 22-D through G
3 and State's Exhibit 22-B, State's Exhibit 22-C,
4 did you maintain those in your care, custody and
5 control until you turned them over to another
6 chemist?

7 A. Yes, sir, I did.

8 Q. As to State's Exhibits 22-D through 22-G,
9 were those sealed and turned over to a chemist in
10 your lab?

11 A. Yes, sir, they were.

12 Q. And who was that?

13 A. Ms. Christie Kim.

14 Q. I'm sorry, this is the -- okay, and as
15 to State's Exhibits 22-B and 22-C, were those
16 maintained sealed in your care, custody and
17 control until they were turned over to Christie
18 Kim?

19 A. That's correct. They were.

20 Q. And as to State's Exhibits 22-B and C
21 and State's Exhibits 22-D through 22-G, were all
22 those labeled as to what you had placed inside
23 them and your initials placed on them?

24 A. Yes, sir, that's correct. They were.

25 Q. As well as the lab number?

1 A. Yes, sir.

2 Q. Are you familiar with the qualifications
3 of Christie Kim to act as a -- to work as a
4 chemist in the serology section of the crime lab?

5 A. Yes, sir, I am.

6 Q. What are those qualifications?

7 A. She has a B.S. degree in chemistry from
8 the University of the Houston. She obtained her
9 degree in 1983. She worked as a technician from
10 1983 until 1984. She became a chemist and a -- in
11 the serology section in 1984 and had been
12 undertraining or undergoing extensive training in
13 forensic serology at that time -- during that
14 period of time. She has also attended specialized
15 schooling and had some formal training with the
16 Southwest Association of Forensic Scientists and
17 has been working in the field approximately since
18 1984.

19 Q. Is she currently off on maternity leave?

20 A. Yes, sir, she is.

21 A. At my request, did you bring some
22 records that were produced as this case was worked
23 on in the laboratory there at the Houston Police
24 lab?

25 A. Yes, sir, I did.

1 Q. Are you a custodian of -- may I approach
2 the witness?

3 THE COURT: Yes, sir.

4 MR. HAWKINS: May I see those records,
5 please? May I have just a moment, Judge?

6 THE COURT: Yes, sir.

7 Q. (By Mr. Hawkins) Do you also have some
8 submission slips as well?

9 A. Yes, sir.

10 MR. HAWKINS: May I have these marked,
11 please?

12 (State's Exhibit's 69 and 70 marked.)

13 Q. (By Mr. Hawkins) Let me show you what's
14 been marked as State's Exhibits 69 and 70 that you
15 brought with you today. Are you the custodian of
16 the records of all those pages contained within
17 State's Exhibit 69 and State's Exhibit 70?

18 A. Yes, sir, I am.

19 Q. Are those records made in the regular
20 course of business at the Houston Police
21 laboratory?

22 A. Yes, they are.

23 Q. Is it in the regular course of business
24 that those records are made and kept?

25 A. Yes, sir, it is.

1 Q. That being State's Exhibits 69 and 70?

2 A. That's correct.

3 Q. As to State's Exhibits 69 and 70, are
4 those also made by a person that has first hand
5 knowledge of the information contained on those
6 records that would have been placed there at or
7 about the time that the events were recorded and
8 placed on those items?

9 A. Yes, sir, it is.

10 MR. HAWKINS: Your Honor, at this time
11 the State would move to admit State's Exhibit 69
12 and State's Exhibit 70 and tender same to Defense
13 Counsel.

14 MR. DOWELL: May I have just a moment to
15 look at these, Your Honor? I have not seen these.

16 THE COURT: You have not seen these?

17 MR. HAWKINS: He has seen portions.

18 THE COURT: They are quite lengthy.
19 It's going to take him a long time to look at them.
20 I certainly am going to afford you that
21 opportunity. Don't worry about that. Do you have
22 any foggy idea how long it's going to take you to
23 go over those, Mr. Dowell?

24 MR. DOWELL: Judge, probably it looks
25 like it's going to take about ten to fifteen

1 minutes.

2 THE COURT: Members of the jury, I will
3 let you all go on home a little bit early this
4 afternoon, and then you all won't have to sit
5 there and cool your heels while he looks over
6 those, because it's going to take him longer than
7 he thinks it is. It always does. I will excuse
8 you all until 9:30 tomorrow morning. Remember the
9 admonitions I have previously given you. Don't
10 discuss the case with anyone. Don't watch
11 anything about it on the boob tube or read
12 anything about it in the newspaper. See you at
13 9:30 in the morning.

14 (At this time the Court recessed until
15 October 28, 1987.)
16
17
18
19
20
21
22
23
24
25

1 (At this time the witness, Jim Bolding,
2 returned to the stand.)

3 THE COURT: All right, bring the jury
4 back, please.

5 (Jury back.)

6 THE COURT: Good morning, ladies and
7 gentlemen of the jury. I notice this morning we
8 are on one of our temperatures, either too hot or
9 too cold. Right now it's too cold. If you all
10 get too miserable, let me know and I will see what
11 I can do with the county on it.

12 All right, you were reviewing the
13 records that had been offered by the State,
14 State's Exhibits 69 and 70 for purpose of making
15 an objection, if any.

16 MR. DOWELL: I have no objection, Your
17 Honor.

18 THE COURT: Very well, State's Exhibits
19 69 and 70 are admitted.

20 (State's Exhibits 69 and 70 admitted.)

21 MR. HAWKINS: May I have this marked?

22 (State's Exhibit 69-A marked.)

23 Q. (By Mr. Hawkins) Let me show you what's
24 been marked as State's Exhibit 69-A. Did you
25 extract some documents from State's Exhibit 69?

1 A. Yes, sir, I did.

2 Q. State's Exhibit 69-A and the papers
3 attached thereto, was that attached to State's
4 Exhibit 69 when I asked you about it?

5 A. Yes, they were.

6 MR. HAWKINS: Your Honor, the State
7 moves to introduce what has been marked as 69-A.
8 May the record also reflect I am tendering same to
9 Defense Counsel?

10 MR. DOWELL: These are different
11 exhibits than I saw yesterday, Your Honor,

12 THE COURT: That then was not part of 69?

13 MR. HAWKINS: May I ask some more
14 questions?

15 THE COURT: All right, find out. Mr.
16 Dowell says he has not seen them.

17 Q. (By Mr. Hawkins) Mr. Bolding, yesterday
18 these items-- the papers marked 69-A, did you have
19 those attached to the records which I asked you
20 about?

21 A. Yes, sir, I did.

22 Q. What were they are attached to -- 69 or
23 70, if you could look for me -- both of them.

24 THE COURT: 69 were your lab reports and
25 70 were submission slips.

1 A. As I recall, they were attached to the--

2 THE COURT: Mr. Dowell, you have not
3 seen those before? Are you certain you have not?

4 MR. DOWELL: Judge, may I show you one
5 thing?

6 THE COURT: No, sir. You may answer my
7 question.

8 MR. DOWELL: I'm sure I have not seen
9 this one.

10 A. Those may not have been attached to
11 those forms, but they are a part of the records of
12 the analysis performed. They are attached to
13 State's Exhibit 69. 70 were the copies of the
14 submission forms.

15 THE COURT: Retire the jury until we get
16 this straightened out.

17 (Jury out.)

18 THE COURT: Now, you were recessed early
19 for the very intention of keeping just exactly
20 this kind of foolishness from happening. You all
21 get that squared away and get it squared away
22 right now.

23 A. All right, these are the submission
24 forms.

25 MR. HAWKINS: Okay, they may have gotten

1 out of order.

2 A. I didn't make a copy for my records.
3 These were the items that Counsel asked to be
4 removed-- the medical report and the offense
5 report.

6 MR. DOWELL: The officer's reports were
7 marked and that is why we had to have them removed.

8 THE COURT: I understand that.

9 MR. HAWKINS: Just for the record, when
10 we marked State's Exhibit 69 yesterday there was a
11 three page lab report. Is that correct?

12 A. Right, that was also attached to it.

13 MR. HAWKINS: Was there anything else
14 attached to it?

15 A. The --

16 MR. HAWKINS: What's now marked as 69-A7

17 A. 69-A was also attached.

18 MR. HAWKINS: That is what I recall as
19 well.

20 MR. DOWELL: The only real objection I
21 have got to this is these three which appear to be
22 handwritten notes.

23 THE COURT: It would be nice to know
24 what that objection was.

25 MR. DOWELL: They are hearsay and are

1 not part of the medical records.

2 THE COURT: That's not a medical record
3 in the first place. It's a lab report.

4 MR. DOWELL: It is not a part of the lab
5 report, Judge.

6 THE COURT: May I see it?

7 MR. HAWKINS: Yes, ma'am. Here is the
8 remainder of 69, Judge.

9 THE COURT: Well, certainly a phone call
10 slip from the prosecutor to a chemist is hardly
11 part of a record. Just wait a minute, Mr. Hawkins.

12 MR. HAWKINS: Yes, ma'am.

13 THE COURT: I can't tell what the rest
14 of this on this blue slip is. It appears to be
15 notes. I have no idea by whom. The phone call
16 slip from the prosecutor is hardly part of an
17 official record. On the other hand, I fail to see
18 how you are harmed by something to the chemist
19 saying to call Bill Hawkins. It really has
20 nothing to do with the guilt or innocence of this
21 defendant by any stretch of the imagination.

22 MR. DOWELL: I agree with it, Your Honor,
23 but I saw it and I needed to look at it.

24 THE COURT: I understand, and it's
25 sustained as to the telephone slip. At this

1 moment it's sustained as to the blue slip and the
2 white slip. The Court has absolutely no knowledge
3 of what they are. Unless somebody instructs me to
4 the contrary, the prior ruling will remain that
5 way.

6 MR. HAWKINS: Judge, since we have the
7 jury out, I would like to ask a couple of
8 questions about the two attached papers.

9 THE COURT: All right.

10 Q. (By Mr. Hawkins) Mr. Solding, if you
11 would, look at 69-A and the first two pages that
12 are attached to that, that being one white page
13 off a small note page and one blue page of a note
14 pad. The blue says Houston Police Department at
15 the top. What are those?

16 A. They are notes by the chemist.

17 THE COURT: What chemist?

18 A. Christie Kim as to what transpired as to
19 some of the level of analysis and some oral
20 messages from the prosecutor, Hawkins, and Ms. Kim.

21 THE COURT: Which is which? Which is
22 what?

23 A. The white sheet is a note stating Mr.
24 Hawkins called inquiring about an analysis on the
25 panties and panty hose.

1 THE COURT: Okay, that is not part of
2 the lab report.

3 A. The blue sheet is a listing of samples
4 that had been run on Salazar, Yanes and Rodriguez
5 as to whether or not they are secreters or non
6 secreters, etcetera, and Beltran.

7 THE COURT: That thing is part of your
8 lab report -- that scribbling on that blue piece
9 of paper there?

10 A. It is an initial note they made before
11 she made an entry.

12 THE COURT: The objection is sustained
13 as to the telephone slip and whatever it is on the
14 white sheet of paper concerning a phone call and
15 request from the prosecutor. Take them off.

16 MR. HAWKINS: At this time, Your Honor,
17 the State would request that the remainder of
18 those two -- the remainder of 60-A be marked as
19 69-B, starting with the blue Houston Police
20 Department note.

21 THE COURT: Why don't you mark it 69-A?
22 (At this time State's Exhibit 69-A was
23 re-marked.)

24 THE COURT: All right, bring the jury
25 back.

1 (Jury back.)

2 THE COURT: All right, State's Exhibit
3 69-A is admitted.

4 (State's Exhibit 69-A admitted.)

5 Q. (By Mr. Hawkins) Okay, Mr. Bolding, do
6 those records which have been admitted as 69-A, 69
7 and 70 indicate whether any evidence was received
8 in the Houston Police Department laboratory in the
9 case involving Marisela Salazar?

10 A. Yes, sir, they do.

11 MR. HAWKINS: May I approach the witness,
12 Your Honor?

13 THE COURT: Yes, sir.

14 Q. (By Mr. Hawkins) Chemist Bolding,
15 yesterday we spoke about State's Exhibits 22-C, D,
16 E, F and G, and those were taken by you from
17 suspect -- and the contents were taken by you from
18 an individual named Isadora Yanez. Is that
19 correct?

20 A. That's correct.

21 MR. HAWKINS: Your Honor, at this time
22 the State would move to admit these items.

23 THE COURT: 22-C, D, E, F and G?

24 MR. HAWKINS: Yes, ma'am, and,
25 additionally, 22.

1 THE COURT: All right, you are not
2 tendering 22-B?

3 MR. HAWKINS: Yes, I am, and I tender
4 same to Defense Counsel at this time.

5 THE COURT: All right.

6 MR. DOWELL: No objection.

7 THE COURT: State's Exhibits 22-B
8 through G are admitted.

9 (State's Exhibits 22 B through G
10 admitted.)

11 Q. (By Mr. Hawkins) Mr. Bolding, as to
12 State's Exhibits D, E, F and G, the hairs that
13 were taken from Isadora Yanes, were those given to
14 another chemist in the serology lab?

15 A. Yes, sir, they were.

16 Q. Who were they given to?

17 A. To Ms. Christie Kim.

18 Q. Do your records reflect if Christie Kim
19 gave them to someone else in the lab?

20 A. Yes, sir, it does.

21 Q. Who did Christie Kim give it to?

22 A. To Reidun Hillman.

23 Q. As to State's Exhibits 22-B and C, who
24 were those given to in the lab?

25 A. They were given to Ms. Christie Kim.

1 Q. And do your records reflect whether or
2 not Christie Kim analyzed those two exhibits?

3 A. Yes, sir, it does.

4 Q. As to State's Exhibit 23-B -- pardon me --
5 23-B and 23-A, State's Exhibit 61-A and 61-B, do
6 your records reflect that those were received in
7 the Houston Police Department laboratory?

8 A. Those exhibits are, sir --

9 Q. State's Exhibit 63-B being a saliva
10 sample from Manual Beltran.

11 A. Yes, sir.

12 Q. A blood sample--

13 THE COURT: 23-B?

14 MR. HAWKINS: Pardon me. 23-B, Judge.

15 Q. (By Mr. Hawkins) 23-B was a saliva
16 sample from Manual Beltran?

17 A. Yes, it was.

18 Q. And 23-A, that being a blood sample from
19 Manual Beltran, does that indicate that was
20 received in the lab as well?

21 A. Yes, it does.

22 Q. State's Exhibit 61-B being a saliva
23 sample from George Rodriguez?

24 A. Yes, sir.

25 Q. And State's Exhibit 61-A, the blood

1 inventory was made of the contents of State's
2 Exhibit 3?

3 A. Yes, sir, it does.

4 Q. And do your records reflect that State's
5 Exhibit 4, a bag containing panties, and State's
6 Exhibit 5, a pair of panties, were contained
7 within State's Exhibit 3?

8 A. Yes, sir.

9 Q. Do your records also reflect that a
10 plastic -- pardon me -- State's Exhibit 64-A and
11 64, that being a plastic bag containing a blood
12 sample envelope from a Marisela Salazar, was
13 contained within State's Exhibit 3?

14 A. Yes, sir, it does.

15 Q. And do your records also reflect that
16 contained within State's Exhibit 3 was a rectal
17 swab -- that box with a rectal swab and it's
18 contents, as well as State's Exhibit 7 and it's
19 contents, the rectal smear, was contained within
20 State's Exhibit 3?

21 A. Yes, sir, it does.

22 Q. Do your records also reflect that a box
23 labeled vaginal swab -- State's Exhibit 58 was
24 received in the Houston Police Department
25 laboratory with a vaginal swab contained within a

1 vaginal swab box?

2 A. That's correct.

3 Q. And as to State's Exhibit 59, the
4 vaginal smear -- pardon me-- a container labeled
5 vaginal smear and it's contents were contained in
6 State's Exhibit 3, as was State's Exhibit 58?

7 A. Yes.

8 Q. Do your records also reflect that
9 State's Exhibit 64, the contents of 64 being Ms.
10 Salazar's blood sample?

11 A. Yes, sir.

12 Q. State's Exhibit 7 being the contents of
13 the rectal smear?

14 A. Yes, sir.

15 Q. State's Exhibit 6 being the rectal swab
16 box and it's contents, State's Exhibit 58 being
17 the vaginal swab box and it's contents and State's
18 Exhibit 59, the vaginal smear container and it's
19 contents, were analyzed by Christie Kim?

20 A. Yes, sir.

21 Q. Do your records also reflect State's
22 Exhibit 5 was analyzed by Christie Kim?

23 A. Yes, sir, it does.

24 Q. They were a pair of panty hose contained
25 with the clothes received by Christie Kim with the

1 other clothing, was there not?

2 A. Yes.

3 Q. According to your records?

4 A. Yes, sir, there was.

5 Q. And that's labeled State's Exhibit 11,
6 and do your records reflect Christie Kim analyzed
7 those panty hose?

8 A. Ms. Kim did analyze those.

9 Q. Contained within State's Exhibit 3 was a
10 piece of paper with a piece of gauze attached to
11 it. Can you tell the jury what that is, please?

12 A. It's a dry sample of the blood from the
13 known blood sample contained in State's Exhibit 3.

14 Q. And why is that done?

15 A. It's done to preserve a sample of the
16 blood in a dried condition so an analysis may be
17 done at a later time.

18 Q. As to State's Exhibit 63, that being the
19 gauze, and State's Exhibit 64 being the blood
20 sample of Marisela Salazar, do your records
21 reflect which of those were analyzed by Christie
22 Kim?

23 A. The sample of blood that was in the vial.

24 Q. State's Exhibit 64?

25 A. Yes, sir.

1 Q. And do your records reflect that when
2 state's Exhibit 3 was opened there were also some
3 fingernail scrapings in there?

4 A. Yes, sir.

5 Q. Okay, and do your records reflect that
6 there were no scrapings found underneath the
7 fingernails of Marisela Salazar when that sample
8 was analyzed by Christie Kim?

9 A. It shows they were present. There is no
10 analysis shown on it.

11 Q. Okay, as to State's Exhibits 57-A, B and
12 C, that being envelopes labeled with the pubic
13 hair of Marisela Salazar, A being the known head
14 hair of Marisela Salazar and C the known pubic
15 hair of Marisela Salazar, does it reflect those
16 items were received in State's Exhibit 3 in the
17 Houston lab?

18 A. Yes, sir, it does.

19 Q. And does it reflect those particular
20 items were turned over to any particular chemist?

21 A. Yes.

22 Q. And who is the chemist 57-A through C
23 were turned over to?

24 A. Ms. Rhidun Hillman.

25 MR. HAWKINS: May I approach the Bench,

1 Your Honor?

2 THE COURT: Yes, sir.

3 (The following proceedings were had at
4 the Bench:)

5 MR. HAWKINS: I am going to need a
6 moment to check and see if I have everything.

7 THE COURT: All right.

8 (At this time the proceedings at the
9 Bench were concluded.)

10 Q. (By Mr. Hawkins) Mr. Bolding, do you
11 also have some hair samples with you? May I have
12 these marked, please?

13 (State's Exhibits 71 and 72 marked.)

14 Q. (By Mr. Hawkins) Let me show you what's
15 been marked as State's Exhibit 72 and look at the
16 contents, please.

17 A. Yes.

18 Q. And what is contained within State's
19 Exhibit 72?

20 A. There are two pieces of white paper that
21 are contained in State's Exhibit 72.

22 Q. Were you involved with the collection of
23 the items contained within the paper that's in
24 State's Exhibit 72?

25 A. Yes, sir, I was.

1 Q. What was it that you did with the two
2 pieces of paper in State's Exhibit 72?

3 A. They were hair samples that were
4 apparent in a pair of panties and a pair of panty
5 hose and I placed those here in both of the
6 envelopes.

7 Q. All right, as to those two paper
8 containers in State's Exhibit 72, did you label
9 those two items?

10 A. Yes, sir, I did.

11 Q. And how did you label the larger of the
12 two items?

13 A. It's labeled with the lab number and the
14 hair from the white panties.

15 Q. And your initials, as well as the date?

16 A. Yes.

17 Q. And were those recovered last Friday on
18 October 23rd of 1987?

19 A. That's correct.

20 Q. At the Houston Police Department
21 Laboratory?

22 A. Yes, sir.

23 Q. And also as to the smaller piece of
24 paper that was contained within State's Exhibit 72,
25 did you personally recover that?

1 A. Yes, sir, I did.

2 Q. And did you label it when you recovered
3 something that you placed in the smaller paper
4 contained in State's Exhibit 72?

5 A. Yes, sir, I did.

6 Q. How was it that you labeled it?

7 A. Lab number, L87-2120, the date, October
8 23, 1987, panty hose and my initials.

9 Q. As to those two small pieces of paper
10 contained within State's Exhibit 72, did you seal
11 those in such a way that the items contained
12 within them would not be lost?

13 A. That's correct, I did.

14 Q. As to the hair from the white panties
15 that is the larger of the envelopes in State's
16 Exhibit 72, did you recover that from the pair of
17 panties that was labeled State's Exhibit 5 --
18 these panties here?

19 A. Yes, sir, I did.

20 Q. And after you had recovered the hair
21 from the panties and placed it in the larger of
22 the two papers in State's Exhibit 72, what did you
23 do with that particular item?

24 A. I tendered it to Ms. Rhidun Hillman for
25 her analysis.

1 Q. So, the smaller of the pieces of paper
2 contained within State's Exhibit 72, you labeled
3 that hair in panty hose, did you not?

4 A. Yes, sir, I did.

5 Q. And did you recover the hair contained
6 within the smaller of the two envelopes as the
7 hair that was obtained from State's Exhibit 11,
8 the panty hose that was admitted in this case?

9 A. Yes, sir, I did.

10 Q. And you recovered that on Friday as well.
11 Is that correct?

12 A. Yes, sir, I did.

13 Q. And was that done when I was over at the
14 lab reviewing the evidence in this case with you?

15 A. That is also correct. Yes, sir.

16 Q. As to the smaller of the envelopes in
17 state's Exhibit 72 and it's contents and the
18 larger envelope in State's Exhibit 72 and it's
19 contents, you turned all of that over to Ms.
20 Hillman?

21 A. Yes, sir, I did.

22 Q. If you would, please look at State's
23 exhibit 72 for me and tell the jury, please, what
24 it contains.

25 A. It contains again three pieces of folded

1 paper that have been labeled.

2 Q. And do you recognize the writing on
3 State's Exhibit 71 and it's contents?

4 A. Yes, sir, I do.

5 Q. Okay, and who is that the writing of?

6 A. Ms. Christie Kim.

7 Q. Do your records reflect what -- do you
8 recognize the writing? You do. Is that correct?

9 A. Yes.

10 Q. And how is it -- excuse me. I think I
11 need to get those marked.

12 (State's Exhibits 71-A, B and C marked.)

13 Q. (By Mr. Hawkins) As to what is now
14 labeled as State's Exhibits 71-A, B and C, were
15 those contained in the plastic envelope, State's
16 Exhibit 71?

17 A. Yes.

18 Q. What is 71-A?

19 A. Hair recovered from the pair of panties
20 in the case.

21 Q. That being State's Exhibit 5?

22 A. Yes, sir.

23 Q. And do your records reflect what State's
24 Exhibit 71-B is and where it was recovered?

25 A. Yes, it is listed as hairs and fibers

1 from the hat.

2 Q. And that is -- would be State's Exhibit
3 71?

4 A. Yes, sir.

5 Q. And as to State's Exhibit 71-C, do your
6 records reflect what those are and where it was
7 found?

8 A. That is listed as hairs from jeans,
9 panty hose, bra and shirt.

10 Q. And do your records reflect what Ms. Kim
11 did with State's Exhibit 71 and State's Exhibit
12 71-A through C?

13 A. Yes, sir, it reflects that those
14 particular items were tendered to Ms. Rhidun
15 Hillman for analysis.

16 Q. And State's Exhibits 71-A through C were
17 both found on the clothing by Christie Kim in your
18 lab and tendered by Christie Kim in your lab to
19 Rhidun Hillman, according to your records. Is
20 that correct?

21 A. That's correct.

22 MR. HAWKINS: May I have just a second,
23 Judge?

24 THE COURT: Yes, sir.

25 Q. (By Mr. Hawkins) And, as to State's

1 Exhibit 72 And it's contents, those were recovered
2 by you and tendered to Ms. Hillman as well. Is
3 that correct?

4 A. That's correct.

5 MR. HAWKINS: Your Honor, at this time
6 the State would the move to admit State's Exhibit
7 82 and it's contents, two small paper containers,
8 and the hair it contains, as well as State's
9 Exhibits 71 and 71-A, B and C, as well as the
10 contents of 71-A, B and C.

11 MR. DOWELL: May I take him on voir dire
12 just briefly?

13 THE COURT: Yes, sir.

14
15 VOIR DIRE EXAMINATION

16
17 BY MR. DOWELL:

18
19 Q. Mr. Holding, how can you tell on State's
20 Exhibit 71-B, 71-A and 71-C when and where they
21 were recovered?

22 A. There is no date as to where, but the
23 envelopes are labeled as to where each one was
24 recovered.

25 Q. Okay, they refer to hat, panties and

1 panty hose.

2 Q. How do you corrolate those to these
3 exhibits is what I'm asking you?

4 A. The laboratory number is reflective of
5 the items that were were submitted in this case.
6 L87-2120 is on all of these items.

7 MR. DOWELL: No further questions on
8 voir dire, Your Honor, and I have no objection.

9 THE COURT: All right, State's exhibits
10 71 and 71-A, B and C and 72 and the contents
11 thereof are admitted.

12 (State's Exhibits 71, 71-A, B, and C and
13 72 admitted.)

14
15 DIRECT EXAMINATION (Cont.)

16
17 BY MR. HAWKINS:

18
19 Q. As to all the items which were received
20 in the Houston Police Department laboratory in
21 this particular case, were they all assigned a lab
22 report number?

23 A. Yes, sir, they were.

24 Q. Do your records reflect that the items
25 were labeled as the item itself was labeled with

1 the lab number?

2 A. Yes, sir, L87-2120.

3 MR. HAWKINS: May I have just a moment,
4 please, Your Honor?

5 THE COURT: Yes, sir. All right, Mr.
6 Hawkins, let's move along, please.

7 MR. HAWKINS: Yes, ma'am. I need to
8 find one more blood sample. There we go.

9 Q. (By Mr. Hawkins) Now, Mr. Bolding, do
10 your record reflects that an analysis was done by
11 Christie Kim on the blood that was obtained from
12 the four individuals in this case, being Isadora
13 Yanez, Manual Beltran, Marisela Salazar and the
14 defendant, George Rodriguez?

15 A. Yes, sir.

16 MR. HAWKINS: May I have permission for
17 the witness to stand down, Your Honor?

18 THE COURT: Yes, sir.

19 MR. HAWKINS: Mr. Bolding, if you would,
20 step down for me, please.

21 (At this time the witness left the
22 stand.)

23 THE COURT: Mr. Bolding, I am sure you
24 know to keep your voice up over there.

25 A. Yes, Your Honor.

1 Q. (By Mr. Hawkins) Mr. Bolding, would it
2 assist you in explaining the results from this
3 particular case in using a diagram of the parties
4 involved?

5 A. Yes, it would.
6 (State's Exhibit 73 marked.)

7 Q. (By Mr. Hawkins) For the purpose of the
8 record, Mr. Bolding, we have marked the chart that
9 we have here as State's Exhibit 73, and that is
10 what will assist you in explaining this portion of
11 the testimony to the jury. Is that correct?

12 A. Yes, sir.

13 Q. Do your records reflect that Christie
14 Kim analyzed the blood samples of Marisela Salazar,
15 George Rodriguez, Beltan and Yanex for their blood
16 type?

17 A. Yes.

18 Q. What do your records reflect were the
19 results of the analysis for Marisela Salazar?

20 A. The record reflects that Ms. Salazar was
21 type O non secreter.

22 THE COURT: You all are going to have to
23 do something to where the court reporter and the
24 jury can hear him.

25 MR. HAWKINS: Why don't you stand here

1 where everybody can see you, and push it back a
2 little so the court reporter can see as well.

3 Q. (By Mr. Hawkins) Do your records also
4 reflect that Christie Kim analyzed a saliva sample
5 from Marisela Salazar, George Rodriguez, Manual
6 Beltran and Isadora Yanez?

7 A. Yes, it does.

8 Q. Would you please tell me -- tell the
9 jury what the blood and secreters type of each of
10 those individuals was.

11 A. Ms. Salazar was determined to be a type
12 O non-secreter, so I will put an O, and the
13 secreter status was no. She was not a secreter.

14 Q. And what about George Rodriguez? What
15 do your records reflect was the results of the
16 analysis on his blood?

17 A. He was likewise an O and a non-secreter.

18 Q. And the same, if you please, for Manual
19 Beltran and Isadora Yanez blood and saliva?

20 A. Mr. Beltran was an A secreter.

21 Q. And Mr. Yanez, what about him?

22 A. Mr. Yanez was an A -- I'm sorry. An O
23 secreter.

24 Q. Do your records reflect that Christie
25 Kim analyzed some of the clothing from this

1 particular case for semen?

2 A. Yes, sir, it does.

3 Q. And out of those items that she examined
4 for semen, was there any semen found on any of
5 them?

6 A. Yes, sir, there was semen found.

7 Q. Where was that found?

8 A. Semen was found on the rectal swab, the
9 white panties and the panty hose submitted.

10 Q. Do your records also reflect that those
11 items were examined or analyzed by Christie Kim to
12 determine a blood type or secrete type or
13 something like that?

14 A. Yes.

15 Q. What do the records reflect was learned
16 from that analysis?

17 A. The swab, the panties and the panty hose
18 all had a secretion on them.

19 Q. Would you write those down, please? Now,
20 if you would, for the jury, please explain a
21 little bit for us about the blood type -- what a
22 blood type is, for instance, and the significance
23 of an A and an O blood type.

24 A. Blood types are, again, those factors
25 that distinguish groups of people as far as

1 genetic makeup is concerned, and secrete
2 information is that information that is determined
3 or can be determined by using factors -- the
4 saliva sample and the semen of the individual will
5 reflect whether or not they are secreters of their
6 own blood group.

7 Q. And if they are secreters, is it
8 possible to determine the blood type on an item
9 where the body fluids have appeared on?

10 A. That's correct. It is.

11 Q. As to the blood group and secrete type
12 of an O non-secrete, approximately what percent
13 of the population is an O non-secrete?

14 A. Of the O non-secreters, I would imagine
15 some ten to fifteen percent of the population
16 would be said to be non secreters.

17 Q. And how about O secreters and A
18 secreters?

19 A. A secrete would be approximately
20 thirty-two percent of the overall population. O
21 secreters would be approximately thirty-five
22 percent of the overall population.

23 Q. Based upon the analysis for the blood
24 type and the secreters of the samples tested from
25 Marisela Salazar, George Rodriguez, Manual Beltran

1 and Isadora Yanez, as well as the panties which we
2 have labeled unknown, is it possible to determine
3 who may or may not be a donor of the semen found
4 on the panties and the panty hose and swabs
5 labeled unknown?

6 A. Yes, sir, we can make that determination.

7 Q. As to Marisela Salazar, what
8 determination would be made from that?

9 A. I am going to say yes, because none of
10 her signs appear and she is indeed a non secreter.

11 Q. So, if a non-secreter -- is it possible
12 for you to say that her -- excuse me. Let me
13 reword that. Is it possible to eliminate her as
14 one of the possible donors of the body fluid on
15 the panty hose, panties and rectal swab and smear?

16 A. It is impossible to eliminate her as a
17 possible participant.

18 Q. Did you say impossible?

19 A. That's correct.

20 Q. As to George Rodriguez, is it possible
21 to eliminate him as a potential donor of the semen
22 on the rectal swab and smear and panties and
23 panty hose?

24 A. We cannot eliminate him as a possible
25 donor.

1 Q. So, that would make him a possible donor.

2 Is that correct?

3 A. Yes, sir.

4 Q. As to Manual Beltran, is it possible to
5 determine whether or not he could have deposited
6 the semen found on the panties, panty hose and two
7 rectal swabs and smears that were analyzed?

8 A. It is possible that his secretions would
9 have appeared and it is impossible to eliminate
10 him as a possible donor.

11 Q. Okay, if you would, write yes in there
12 for us. And why is he a possible donor of the
13 body fluids found on the unknown we have labeled
14 as the panties and those items?

15 A. Because the record reflects Ms. Kim did
16 find a secretion, and with estrogen it's possible
17 those secretions would be a part of his semen
18 donation.

19 Q. And that would make him a possible donor
20 of the semen found on the panty hose and panties
21 and rectal smear of Marisela Salazar. Is that
22 correct?

23 A. Yes, sir.

24 Q. Is it possible to determine whether or
25 not Isadora Yanes is one of the donors to the

1 semen found on the panties, panty hose and rectal
2 swab and smear of Marisela Salazar?

3 A. It is possible to make that
4 determination.

5 Q. Okay, and is he a possible donor of that
6 semen?

7 A. No, sir, he is not.

8 Q. And would you tell the jury why, please?

9 A. Again, because he is a secreter and the
10 grouping would be O, one would predict his
11 genetics would show up as a donor in a sexual
12 assault or intercourse. None of those O
13 secretions did show up by the testing by Ms. Kim.

14 Q. All right, have a seat.

15 (At this time the witness returned to
16 the stand.)

17 MR. HAWKINS: I will pass the witness at
18 this time, Your Honor.

19 THE COURT: Mr. Dowell.

20 MR. DOWELL: Thank you, Your Honor.

21 THE COURT: Yes, sir.
22
23
24
25

CROSS EXAMINATION

BY MR. DOWELL:

Q. Mr. Bolding, could you clarify something for me? On State's Exhibit 72 there were two pieces of paper with hair samples and a pair of panties and panty hose that were recovered. Is that correct?

A. Yes, sir.

Q. And then in State's Exhibits 71-A, B and C there were other hair samples recovered from what appears to be the same items. Is that correct?

A. Yes, sir.

Q. Can you tell when these other hair samples were recovered?

A. Ms. Kim has the record reflect that she recovered hairs on February 25th of 1987.

Q. Thank you. Do we take it from that that she did not recover all the hairs on those items then?

A. Yes.

Q. She left some?

A. Apparently so.

1 Q. In your experience, is it possible for
2 a person in a hospital collecting rectal and
3 vaginal smears to confuse the two swabs and could
4 he put-- could a person put the rectal swab in a
5 vaginal box and the vaginal swab in a rectal box?

6 A. I suppose it could be possible. If,
7 however, the physician or health care procedure
8 follows the instructions of the manufacturers,
9 this would be impossible.

10 Q. So, it's whether they followed those
11 instructions or not. Is that right?

12 A. That's correct.

13 Q. Can you look at the swabs out of the
14 boxes and tell any difference in the two?

15 A. Usually there is fetal material on a
16 rectal swab.

17 Q. I'm sorry. I asked a bad question, Mr.
18 Bolding. Before the swabs are used, is there any
19 difference between a swab to be used for rectal
20 collection and a swab to be used for the vaginal
21 collection?

22 A. No, sir, there is not.

23 Q. They look like Q-tips, don't they?

24 A. Yes, sir.

25 Q. Have you had a chance to examine the two

1 swabs used in this case?

2 A. No, sir, I have not.

3 Q. Mr. Bolding, I want to talk a little bit
4 about your diagram here, and I would like for you
5 to clarify it for me. You are not trying to tell
6 this jury that George Rodriguez made a donation to
7 that semen, are you?

8 A. No, sir, I am not.

9 Q. And the reason being that you simply
10 cannot tell?

11 A. That's correct.

12 Q. On a non-secreter?

13 A. That's correct.

14 Q. You have mentioned that it is impossible
15 to eliminate him as a possible donor. It is
16 impossible to say that he is the donor, is it not?

17 A. That's also correct.

18 Q. And isn't it also correct that a person
19 could perform a sexual assault and not leave any
20 trace at all, although he is a secreter?

21 A. Again, if the secretions were present, I
22 would think they would have to be of insufficient
23 quantity. If no secretions were present or no
24 ejaculation occurred, then I would not be able to
25 tell.

1 Q. Okay now, please help me clarify that.
2 There are two things you mentioned, secretions and
3 ejaculations. I think probably everybody knows
4 what ejaculation is. If that does not occur, then
5 certainly you could not tell from semen whether
6 there would be a secreter or not?

7 A. That's correct.

8 Q. What would be the other forms of
9 secretions you mentioned, sir?

10 A. Secretions are, again, the body fluids
11 that would be found in the vagina of a potential
12 complainant, and we perhaps could tell what
13 substances were present.

14 Q. That can come from saliva. Could you
15 give me some examples?

16 A. Of secreters for substances that contain
17 secreter information?

18 Q. Yes, sir.

19 A. Saliva, vaginal fluids, semen from a
20 male, perspiration. Hair samples also may contain
21 secreter information. Most of the body fluids
22 that are not waste body fluids do contain secreter
23 information if the individuals were secreters.

24 MR. DONELL: May I approach the witness?

25 THE COURT: Yes, sir.

1 Q. (By Mr. Dowell) You say ten to fifteen
2 percent of the population would be 0 non-secreters?

3 A. Yes, sir.

4 Q. In terms of numbers in the Houston
5 Metropolitan area, what would that translate to?

6 A. Based on a population of around a
7 million people, ten percent would be a hundred
8 thousand people. Fifteen percent would be a
9 hundred fifty thousand people.

10 Q. And, based on what you have said here,
11 that would leave one hundred to a hundred fifty
12 thousand people that you could not eliminate as
13 possible donors. Isn't that correct?

14 A. Statistically, that's true.

15 Q. And also you are not telling this jury
16 that Isadora Yanez did not do the sexual assault.
17 You are simply saying that he was not a donor to
18 the secretions or to the objects you found on the
19 panties and on the panty hose and on this swab.
20 Is that correct?

21 A. Yes, sir, that's correct.

22 MR. DOWELL: Pass the witness, Your
23 Honor.

24 MR. HANKINS: A few more questions, Your
25 Honor.

1 THE COURT: All right.

2 MR. HAWKINS: May I approach the witness?

3 THE COURT: Yes, sir.

4
5 RE-DIRECT EXAMINATION

6
7 BY MR. HAWKINS:

8
9 Q. Mr. Bolding, you have examined State's
10 Exhibit 5, the panties of Marisela Salazar, have
11 you not?

12 A. Yes, sir.

13 Q. Was there one area of those panties that
14 had what appeared to be more semen and body fluids
15 than another area?

16 A. There were several areas that had semen.

17 Q. Towards the back portion of the panties
18 there was semen found there. Is that correct?

19 A. Yes.

20 Q. And also there was semen found on what
21 we could describe as perhaps the crotch area of
22 the panties?

23 A. Yes.

24 Q. For lack of a better word?

25 A. Yes.

1 Q. As to those two particular areas, can
2 you tell where the majority of the semen was found?

3 A. Again, the majority seemed to be in the
4 crotch area.

5 Q. And is there a reason that could explain
6 that related to a prepubescent female-- young
7 female who has not reached puberty?

8 A. When females are under age, their
9 vaginal openings are not sufficiently large. A
10 semen or ejaculation has a tendency to leak out on
11 to the clothing from the opening that it's
12 deposited in. If it is the vagina, it will then
13 leak or move from the vagina on to the crotch of
14 the panties.

15 Q. And assume with me, if you would, that a
16 prepubescent female had sat around a hospital for
17 some three hours after the --

18 MR. POWELL: Your Honor, I object to the
19 hypothet for assuming facts not in evidence in
20 that there is no evidence that there is
21 prepubescent female in this case.

22 THE COURT: Sustained.

23 Q. (By Mr. Hawkins) Mr. Bolding, in a
24 female that had sat around at a hospital for some
25 three hours after being the victim of a rape,

1 would it be surprising to you that there was not
2 any semen found on the vaginal smear or vaginal
3 swab?

4 A. Again, it again would depend on the
5 physiological anatomy of that female. It would
6 not be without precedent that semen would move by
7 gravity from the vagina to items of clothing and
8 in vaginas that are smaller it would the move more
9 quickly.

10 Q. Would you say that would be more likely
11 to happen with a fourteen years old with no
12 previous sexual experience?

13 A. Again, if she had been a virgin or had
14 been virginal and then penetration had by sexual
15 assault or any other kind of intercourse, it may
16 cause a flow of blood that would move
17 substantially quicker from the vaginal vault to
18 the crotch the pants.

19 MR. HANKINS: I have nothing further,
20 Your Honor.

21 THE COURT: Mr. Dowell.

22 MR. DOWELL: I have no questions.

23 THE COURT: May Mr. Bolding be excused,
24 gentlemen?

25 MR. HANKINS: Yes, Your Honor.

1 MR. DOWELL: No objection, Your Honor.

2 THE COURT: All right, you can go on
3 about your other duties, Mr. Bolding.

4 MR. DOWELL: We know how to get in touch
5 with him if we need him.

6 MR. HAWKINS: Judge, at this time the
7 State moves to admit State's Exhibit 73 as far as
8 all the writing on it.

9 MR. DOWELL: I have no objection.

10 THE COURT: All right, State's Exhibit
11 73 is admitted.

12 (State's Exhibit 73 admitted.)

13 THE COURT: I am going to give you all a
14 break. Let's say until 11:00 o'clock by the
15 courtroom clock. That is fifteen minutes.

16 (At this time the Court took a fifteen
17 minute recess.)

18 (Jury out.)

19 MR. HAWKINS: Earlier, Judge, you said
20 you would think about the admission of the
21 polygraph type statements from Officer Davis.

22 THE COURT: Uh huh.

23 MR. HAWKINS: And at this time I would
24 ask the Court --

25 THE COURT: Why is it the State is all-