

UNCUFF the Innocent · Daniel Holtzclaw case records

Deposition of Elaine Taylor, January 15, 2019 (Ligons v. City of Oklahoma City, No. CIV-16-184-HE): pages cited on this site

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1 won't be interrupting each other. And then if your
2 attorney objects, you have to answer over the
3 objection unless he instructs you to answer -- or
4 instructs you not to answer, so are those rules
5 clear to you?

6 A Yes, ma'am, they are.

7 Q Okay. So tell me what your current
8 employment status is.

9 A I am retired.

10 Q And what is the precise date of your
11 retirement?

12 A February the 3rd of 2017.

13 Q And why did you retire on that date?

14 A Why?

15 Q Yes.

16 A My husband and I retired on the same day,
17 he was -- was a major with the Oklahoma City Police
18 Department, he was -- he retired because he was
19 placed on a special assignment, but he did not
20 actually complete the assignment, so they kept him
21 on as a civilian. And the day we retired was I had
22 27 years and three months, and I didn't want to
23 retire at the very end of 2016 just because of
24 monetary reasons, so we extended it to the 3rd of
25 February, just an arbitrary date. It takes the city

1 quite a few months to get all of your paperwork in
2 order to retire.

3 Q Okay. So the date of February 3rd, 2017
4 was a planned date that you had both, you and your
5 husband had planned to retire on that date?

6 A That's correct, ma'am.

7 Q Okay. Tell me, what is your relationship
8 with Detective Rocky Gregory?

9 A Rocky is my son-in-law.

10 Q He is married to your daughter, and what
11 is her name?

12 A Her name is Theresa.

13 Q Have you worked on other cases with Rocky
14 Gregory, other than the Holtzclaw case?

15 A Yes, ma'am.

16 Q And do you know approximately how many
17 other cases you've worked with him on?

18 A Maybe -- maybe ten, I don't know, he was
19 in sex crimes and then he was transferred to
20 homicide, and sometimes I don't know who the case
21 belongs to unless he signs the request for analysis.

22 Q So was the -- had you disclosed the
23 relationship you had to Detective Gregory to
24 Campbell Ruddock?

25 A Campbell knew, yes.

1 purified DNA, but it's -- it's DNA that's workable
2 and it's cleaned up. Maybe if it was collected in
3 dirt or -- or dust or something like that, then, you
4 know, that -- those particles would be separated
5 and -- and cleaned up from the sample. Is that kind
6 of what you're after?

7 Q Yes, yes, it does, yeah.

8 A Okay.

9 Q Yes. And then just instead of saying
10 purified, if the question was does cleaned up DNA
11 tell you whether it came from body fluid or from a
12 particular cell type, would you then say, no, you
13 can't make that distinction?

14 A Most of the time, you're -- we are aware
15 that the sample is blood or semen, so to say that I
16 don't know what body fluid it might be is kind of
17 not a fair question -- or answer, because generally
18 we --

19 Q Okay.

20 A We are aware of what the sample is.

21 Q That makes sense. Okay. So does finding
22 a person's DNA on underwear or pants of another
23 person mean that you have a sexual assault, can you
24 automatically draw that conclusion? So person A's
25 DNA is on the pants or the fly of person B, does

1 that mean that a sexual assault occurred?

2 A No.

3 Q Have you worked on a case where you
4 concluded that DNA transferred due to touch DNA or
5 indirect touch DNA without body fluids such as
6 saliva or blood?

7 A I'm sorry, have I ever worked on a case --

8 Q Yeah.

9 A -- of -- with touch DNA?

10 Q Yes, like that. Yes.

11 A Well, when I first started working on the
12 Holtzclaw case, the scenario that I was told was
13 that Jannie Ligons was stopped -- was stopped on a
14 traffic violation and she was in Holtzclaw's -- the
15 back seat of Holtzclaw's scout car, and that there
16 was oral sodomy committed. Okay. From that point
17 of view, I made a really big assumption that there
18 was a possibility that I could find Jannie Ligons'
19 epithelial cells on the front of his pants, just
20 because I thought maybe she would try to steady
21 herself, and --

22 Q Okay.

23 A -- that's what I went for was the
24 epithelial -- the possibility of epithelial cells
25 being on the front of his pants. I did not do any

1 alternate light source testing of any kind because I
2 was not thinking it was going to be saliva or
3 vaginal fluids or semen at that point, I was only
4 looking for her epithelial cells to corroborate her
5 story that she told.

6 Q So can we -- and thank you for explaining
7 that. So, and this would go back to your normal
8 protocol and procedure, before you start testing on
9 a case, do you try to get some of the factual or
10 what -- what the authorities are telling you is the
11 factual background of the case, like what is this
12 and why would I be testing it?

13 MR. SMITH: Object to the form. You can
14 answer if you understand it.

15 THE WITNESS: Well, I'm not real clear on
16 exactly what you are trying to ask, ma'am, I'm
17 sorry.

18 Q (By Ms. Zellner) Okay. That's fine. No,
19 we'll -- and we'll have those points where my
20 question isn't clear. I'm just -- let's go back to
21 the information you just provided, you said that you
22 were told that the Holtzclaw case involving
23 Jannie -- Jannie Ligons was an oral sodomy case;
24 right?

25 A That's correct, yes.

1 Q Okay. And when did you get that
2 information in the timeline of your testing, do you
3 get it in the beginning, before you start testing or
4 do you get it later?

5 A Well, the information is -- I believe came
6 over on the request for analysis from Detective
7 Davis, and the -- what she wrote on the request for
8 analysis form was that this was an oral sodomy case,
9 and then she called me and informed me that this was
10 high priority because it was a police officer. And
11 so at that point in time, I requested what evidence
12 had been submitted to the property room and started
13 working on the case.

14 Q And -- and as you said, when you started
15 working on the case, you focused on trying to find
16 evidence of oral sodomy; correct?

17 A That's correct, there were samples from --

18 Q Okay.

19 A -- the rape kit that contained an oral
20 wash, which was the first item of evidence that I
21 looked at in that particular case. I did not find
22 any sperm cells, but I went ahead and did a
23 differential extraction on that sample just in case
24 there would be some pre-ejaculate seepage, which
25 contains DNA, which --

1 Q And what is the -- oh, go ahead.

2 A Which I did not find.

3 Q Did you want to add? Okay. And how
4 important is the timing of the testing when you're
5 looking for some type of ejaculate or evidence of
6 oral sodomy, is there a window of time, I mean,
7 obviously sooner is always better, but is there, you
8 know, can you put it in terms of a couple days, some
9 time frame on it?

10 MR. SMITH: Object to the form. You can
11 answer it if you understand it.

12 THE WITNESS: I do. The oral wash is
13 collected in a liquid and the individual is -- spits
14 everything out into a conical tube, which is then
15 stored, refrigerated, so at that point, the sample
16 is contained, it's refrigerated, it doesn't have to
17 be looked at absolutely immediately. We've gone
18 several months down the road, even years on oral
19 washes and vaginal aspirates and we still have been
20 able to find, if they're present, sperm cells.

21 Q (By Ms. Zellner) Okay. Other than the
22 information that you received from Kim Davis, did
23 you, in fact, look at any more file documents about
24 the Holtzclaw case before you started testifying,
25 did you look at any police reports or anything like

1 that?

2 A I do not ever read police reports. I
3 don't ever want to be prejudiced by what they think,
4 I want the science to speak for itself.

5 Q Okay. So the reason you know you didn't
6 look at the police reports is because you never
7 looked at them, right, in any case?

8 A That's correct. I don't look at the
9 police reports in any of the cases I work.

10 Q Okay.

11 A Well, that's not --

12 Q Were you ever --

13 A Can I --

14 Q I'm sorry, go ahead.

15 A Can I clarify, that's not true, I will get
16 a crime scene report and look at the -- the actual
17 report itself simply because I can't figure out
18 where a sample has come from or the order in which
19 the crime scene people have collected it. So
20 that -- to say that I never read reports is really
21 not accurate because I will read crime scene
22 reports.

23 Q And did you read the Holtzclaw crime scene
24 report on any of these cases?

25 A I don't believe so because it was very

1 clear from the crime scene envelopes where the
2 samples were collected from, from Jannie Ligons'
3 vehicle, from Holtzclaw's scout car, and then the
4 sexual assault report was separate.

5 Q Did you review the sexual assault report?

6 A I tried to, it was extremely difficult to
7 read because we usually get the third or fourth
8 copy, and it's -- the paper that -- I can't remember
9 what it's called, it's -- there's multiple copies
10 and you write on the top and it goes all the way
11 through, it's kind of like a carbon copy and
12 we've --

13 Q Okay.

14 A -- never changed that, that format.

15 Q Okay. So your recollection is you would
16 have gotten the report, but it was a hard to read
17 carbon?

18 A Yes, I tried -- I try reading them --

19 Q Okay.

20 A -- to get little bits and pieces of
21 information, but that particular report was
22 extremely difficult to read.

23 Q Were you told that Holtzclaw and Ligons
24 had had any non-intimate contact or did you factor
25 that into your analysis?

1 Q Right.

2 A And --

3 Q And so did you -- go ahead.

4 A And at some point, she, Jannie Ligons,
5 ended up in the back seat of his scout car.

6 Q Right.

7 A And I -- if I'm not mistaken, I believe
8 the reason her car was swabbed was he went and did a
9 search for I don't know what.

10 Q Okay. But the bottom line is that you
11 were not able scientifically to confirm that there
12 had been an act of oral sodomy; is that right?

13 A That's correct, yes.

14 Q Okay. Now, at a certain point in time, I
15 think around June 19th of 2014, you received
16 Holtzclaw's uniform pants and belt; is that right?

17 A It was his Velcro belt that was in the
18 keepers. His --

19 Q Okay. So do you receive the belt first?

20 A No, the belt was still in the keepers of
21 his pants, so it was actually one, one item of
22 evidence in a brown paper -- a sealed brown paper
23 sack.

24 Q Okay. Had you -- had you looked at the
25 video of Holtzclaw's interrogation that revealed the

1 the pants fell onto the table, it represents you at
2 a later point kind of crunching the pants up to take
3 a photograph?

4 A That's --

5 MR. SMITH: Object to form. You can
6 answer it if you understand it.

7 THE WITNESS: That's correct.

8 Q (By Ms. Zellner) Okay. But the way I'm
9 seeing the pants in Exhibit 2 is the result of you
10 placing the pants in that position; correct?

11 A It is, and they are on white butcher
12 paper, too.

13 Q Right. Were you concerned when you
14 crunched the pants up that you might be transferring
15 any DNA from one place on the pants to another place
16 on the pants?

17 A The only place I was concerned about
18 checking for DNA was around the fly area, I wasn't
19 going to check for DNA on his lower pants, so to
20 scoot the legs up to lay them on top of the rest of
21 the -- the item of evidence, I wasn't concerned
22 about that. I was mainly concerned about a
23 photograph of the item of evidence and then looking
24 at the fly area.

25 Q Okay. Let's -- let me hand you what we've

1 17Q2, have we accurately marked on Holtzclaw Exhibit
2 4 in the black rectangles where you swabbed the
3 pants?

4 A On Q2, it was completely down on that area
5 of fabric, it's a little bit past where the bottom
6 of your -- your square is on Q2.

7 Q Okay. So if we just show each other, so
8 on Q2, I believe what you're telling me is you
9 swabbed down further on the pants; is that right?

10 A Yes. That is correct.

11 Q Do you go below -- okay, do you go -- do
12 you intersect Q1 at all or do you just go down in
13 that space that isn't marked on our --

14 A I just went down on the space that's not
15 marked. If you look at the front of the pants,
16 that -- that fabric that holds the zipper, I swabbed
17 the whole thing, which is kind of covered up a
18 little bit by the -- the way the pants are sitting.

19 Q All right. So am I correct then -- what
20 are the results of that swabbing?

21 A I'm going to have go get my --

22 Q Q1.

23 A I got to get my file out, is that okay?

24 Q Okay. That's fine. Oh, of course.

25 A 17Q1 and Q2 from the front of the pants

1 Q Just going back on this Exhibit 2 that we
2 talked about, because I want to make sure your
3 testimony is clear, so this is the one of the pants
4 that you've explained how they ended up in this
5 position on the table. Do you agree that that could
6 create the possibility of a DNA transfer between the
7 pants and the belt?

8 A I'm not sure how to answer that because
9 like I said, we've -- I've received items of
10 evidence quite frequently that have the belt in the
11 pants keepers, and, you know, this was a Velcro
12 belt, the under belt for his -- his gun belt, and I
13 think that it was just the way it was collected. I
14 mean, there's a possibility there could be -- could
15 be transfer, but I mean, I didn't mess up -- you
16 know, move the belt around a whole lot.

17 I was -- like I said, my biggest concern
18 was to determine whether or not there was DNA on the
19 front of his pants that was consistent with
20 Ms. Ligons, and that's all I was going on at the
21 time of this, of -- that I swabbed these samples --
22 these pants.

23 Q Let me ask you, I want to ask you a
24 specific question about Exhibit 3 where we described
25 the pants, and are they lying on top of white

1 database, only ourselves and some of the crime scene
2 people, simply because they --

3 Q Did you --

4 A -- come in contact with the evidence
5 initially.

6 Q Okay. When you were testing the fly of
7 Holtzclaw's pants to eliminate people, did you, in
8 fact, do elimination of people that were in contact
9 with the pants that worked for the lab?

10 A No, I did not, I felt like there was --
11 there was no precursors that there was anything
12 wrong with the collection of the evidence.

13 Q Did you -- did you check to make sure that
14 your own DNA wasn't on the pants?

15 A Not really.

16 Q Okay. Is your DNA profile, was it kept on
17 file in the lab?

18 A Yes, it should still be there.

19 Q Okay. When you -- after you finished
20 testing, so the first round of testing, 17Q1 and
21 17Q2, from the outside of the fly, what do you do
22 then with the pants? Please describe what you
23 physically did.

24 A They were returned to the brown paper sack
25 they were collected in and that sack was taped shut

1 and I placed it in our evidence storage area within
2 the laboratory.

3 Q Did you fold or roll the pants and the
4 belt to put them back in the bag?

5 A I don't remember, ma'am.

6 Q Okay. But you're the one who put the
7 pants and the belt back in the bag; right?

8 A Yes, I am.

9 Q On April 29th, 2015, you returned the
10 pants and the belt to OCPD evidence about nine
11 months after you got them; right?

12 A Do you have a piece of paper that says
13 that? I -- I don't remember.

14 Q I do. I would rather not have to dig it
15 out, but would it -- the question I want to ask is,
16 would it be unusual for you to have kept these items
17 of evidence for nine months if you, in fact, kept
18 them for nine months?

19 A Okay. Do you have a date of 10-23, 2015,
20 is that --

21 Q I have a date of April 29, 2015 that you
22 returned the pants and belt to OCPD evidence.

23 A Okay. I'm not going to disagree with
24 that.

25 Q And what -- what would be the storage

1 on Rosetta Grate's case on the underwear and you got
2 a positive result, do you remember that, for acid
3 phosphatase?

4 A Let me get her file out.

5 Q Sure.

6 A On Item Number 2, the underwear, yes, I
7 did get a positive ALS.

8 Q Yes. And then I think the acid
9 phosphatase test then was negative for the seminal
10 fluid?

11 A Yes. That is --

12 Q Do you see that?

13 A That's correct.

14 Q What I want to ask -- is there anything
15 else you want to add?

16 A On all -- all three samples.

17 Q So why did you not test Holtzclaw's
18 uniform pants for body fluids?

19 A Because I was only looking for touch DNA
20 on the front, I wasn't looking for a liquid, like
21 saliva.

22 Q So even though there was an allegation of
23 oral sodomy, you weren't looking for a liquid like
24 saliva?

25 A Not on the front of his pants. Like I

1 said, I -- I was specifically looking for touch DNA
2 where I thought maybe she would have kind of
3 steadied herself, I don't know if women do that or
4 not, but I was just trying to think of the idea of,
5 you know, what all -- what could have happened at
6 that point.

7 Q And I think that you testified, you said
8 at trial, "At the time, I felt that an amylase test
9 would not have aided anybody in the investigation of
10 this particular case," that was your trial
11 testimony, that's at Page 4092. Why did you think
12 that doing the amylase test would not have
13 potentially helped the investigation?

14 A Because amylase is found in more than just
15 saliva.

16 Q Did anyone ever request that you test the
17 pants for saliva?

18 A Yes.

19 Q And who was that?

20 A Detective Davis, but our lab --

21 Q She asked you to --

22 A Excuse me.

23 Q Okay. I was just trying to track what
24 you're saying. So Detective Davis asked you to test
25 the pants for saliva, and then what -- what was your

1 response to her?

2 A Okay. Because we are no longer
3 proficiency tested on that body fluid, I could not
4 do it.

5 Q Okay. So even if you had wanted to test
6 for saliva, you could not have done that?

7 A That's correct.

8 Q Okay. Can you tell me what the
9 different -- first, let's go just through a couple
10 things that -- was any proficiency testing done for
11 saliva at all at the lab?

12 A No.

13 MR. SMITH: Ever? Sorry, go ahead and
14 answer.

15 THE WITNESS: No.

16 Q (By Ms. Zellner) Never?

17 A Never.

18 Q Okay. What does a positive test for
19 presumptive -- positive result for presumptive
20 testing mean?

21 A That we used an AP spot or hemastix to
22 determine if the fluid or the sample, it was blood
23 or semen, and once we determined what it possibly
24 was, then we would determine whether or not we
25 would -- where we would go from there as far as DNA

1 saliva?

2 A It was an iodine plate that we used.

3 Q So just so I'm clear, so the pants could
4 have been tested for that -- for saliva using the
5 iodine plate?

6 A We have the chemicals, but as far as being
7 proficiency tested, you know, in that area, we are
8 not, so basically Campbell said you can't do it
9 because you're not proficiency tested in it anymore.

10 Q And did Campbell Ruddock tell you
11 specifically in regard to the Holtzclaw uniform
12 pants that you could not do saliva testing on them
13 because you were not proficiency qualified?

14 A Well, when it came up, I told Kim that we
15 couldn't do it, and she said, well, would you check
16 with Campbell and make sure, and I asked him and he
17 said, that's correct, we are not proficiency tested
18 in that particular body fluid anymore, so you can't
19 do it.

20 Q So just so the record's clear, so it's
21 actually Mr. Ruddock that tells you not to do the
22 saliva testing on Holtzclaw's pants?

23 A Well, actually, it was me that initially
24 said we could not, because number one, we're not
25 proficiency tested, and number two, it was basically

1 a serology test that I did for years and years and
2 years before the ASCLD procedures came in, and even
3 though I had performed the test prior to, I couldn't
4 do it because we are no longer proficiency tested in
5 that particular fluid.

6 Q So we were -- we were talking about the
7 presumptive tests that can be done for different
8 bodily fluids, what about sperm, what is the
9 presumptive test?

10 A Acid phosphatase, confirmatory is an
11 Oppitz stain of the actual dried fluid, and then we
12 have a P30 test that we can do.

13 Q What about a presumptive test for vaginal
14 fluid cells?

15 A For vaginal fluid by themselves, we have
16 none.

17 Q Okay. So you did not have the Lugol's
18 iodine test?

19 A No.

20 Q What about the Dane's staining method for
21 the vaginal fluid?

22 A Ma'am, the only staining method that we
23 ever used and have in our laboratory is the Oppitz,
24 the Christmas-tree stain.

25 Q And that's for sperm; correct?

1 A Yes.

2 Q Okay. So just -- just so the record's
3 clear, so there was no testing available at the time
4 you were doing the testing on Holtzclaw's pants for
5 vaginal fluid cells?

6 A I don't believe there is a test.

7 Q Okay. So are you aware of the Lugol's
8 iodine test?

9 A You know, I think I've heard it over the
10 years, but I never was proficient. Like I said,
11 that was not what was available in our laboratory.

12 MR. SMITH: Okay. The DVD is over.

13 MS. ZELLNER: Okay. So we will take a
14 break.

15 THE VIDEOGRAPHER: Off the record.

16 (Break taken from 10:29 to 10:40)

17 THE VIDEOGRAPHER: Back on.

18 Q (By Ms. Zellner) Let me just, Ms. Taylor,
19 let me go back on your testimony about the
20 proficiency testing for saliva, was the lab at one
21 point qualified and then it became unqualified to do
22 saliva testing?

23 A Well, when we were actually a
24 serology-based laboratory only, you know, we did all
25 the presumptive tests and that type of thing, and,

1 if I did --

2 Q I think you --

3 A -- I'm not aware. Pardon?

4 Q I think you would be aware of it if you
5 had --

6 A Well, I would think so.

7 Q -- given testimony. Have you ever given
8 court testimony on the Holtzclaw case in any type of
9 sealed hearing?

10 A No, I have not.

11 Q Have you ever given any court testimony on
12 your job performance in any type of sealed hearing?

13 A No, ma'am.

14 Q Okay. So you had testified at Holtzclaw's
15 trial that there was no presumptive test for vaginal
16 fluid, as you sit here today, is that still your
17 position, that there is no presumptive test for
18 vaginal fluid?

19 A It is.

20 Q Okay. Would you find it unusual in a
21 sexual assault case if a man's pants were in contact
22 with a woman's vaginal area for ten minutes or more
23 during a rape, that there were no stains or deposits
24 visible on the fly of the pants? So the pants are
25 in contact with the woman's vaginal area for ten

1 minutes, would it be unusual not to find any stains
2 that are visible on the fly of those pants?

3 A Ma'am, I'm not really sure how to answer
4 that, because I did not look for semen stains on his
5 pants per se. I was -- that was information that
6 was not part of the Jannie Ligons investigation. So
7 looking for seminal fluid, no; looking for skin
8 cells, yes.

9 Q So let me -- if the court reporter could
10 hand you what we've marked as Exhibit 5.

11 (Exhibit Number 5 marked for
12 identification and made part of the
13 record)

14 Q (By Ms. Zellner) Now, we've labeled this
15 exhibit 17Q3 and 17Q4, and you've described your --
16 your testing process with 17Q1 and 2, how do you end
17 up doing more testing on the pants, what -- what
18 leads to that effort to test more areas on the
19 pants?

20 A Gayland Gieger came to the laboratory in
21 the summer before the jury trial and we sat together
22 going over my -- my -- my file, and he became, I
23 guess, aware of some other ladies that were possibly
24 involved before the Ligons incident, and he
25 specifically requested that I do the inside of

1 Holtzclaw's uniform pants, and it was his request
2 that led to the sampling of 17Q3 and 17Q4.

3 Q And my understanding is that that testing
4 was done approximately 15 months after the first
5 samples were taken, does that comport with your
6 memory?

7 A It was quite a -- quite a bit later. Let
8 me see. Well, I don't seem to have the supplemental
9 report right this minute. Okay. I found it. On
10 September the 28th of 2015 is when I was requested
11 to do further testing on the uniform pants and I
12 reported the case out on October the 7th. And this
13 was at the request of Gayland Gieger and I
14 specifically state that in my -- my report.

15 Q Thank you. So can you tell me what you
16 remember about the conversation with Gayland Gieger
17 when he made this request, can you kind of elaborate
18 a little bit more on the discussion?

19 A Well, we were -- basically, we were just
20 going over, you know, everything that I did on the
21 case, checking to make sure that, you know, all of
22 the evidence that had been submitted had been
23 tested, and there were apparently two ladies that
24 reported that they were assaulted sometime during
25 the day on the date -- the Ligons issue, and he

1 thought maybe there was a possibility that their DNA
2 could be found inside his pants. Now, I don't --
3 honestly, I do not remember the names of the two
4 ladies, because I only ever got buccal swabs from
5 the different individuals that were supposed to be
6 involved in this. And, of course, Jannie Ligons,
7 being the very first, I had her buccal swabs that
8 they came in with her sexual assault kit.

9 Q Okay. So with this second round of
10 testing, when you were with Mr. Gieger, did you open
11 the evidence bag with him and -- and take the
12 evidence out and discuss it?

13 A No, never did.

14 Q Okay. Did you ever do that with a
15 prosecutor?

16 A Not in this case.

17 Q Okay. But you've done that before; right?

18 A I -- in the -- the room where the big
19 table is that multiple people can be around, I have
20 opened evidence with prosecution and defense
21 present.

22 Q Okay. So in this -- so you don't do that
23 in this case with Mr. Gieger, you're sure you don't
24 open the bag up again and look at the pants?

25 A Not with him present, he just specifically

1 know, once the corrections are -- once he hands it
2 back to me and I make the corrections, then so
3 there's no confusion in the case file of what has
4 been reviewed and what hasn't been reviewed, you
5 know, that -- that is shredded, so I -- I cannot
6 tell you for sure what, if anything, he had me --
7 I'm sure he had me correct stuff, he or -- once that
8 final report, he reviewed and he agreed with
9 everything in it, then he signed off on it and
10 that's when it went out to the courts,
11 investigators.

12 Q Okay. Let me ask you, so during the
13 trial, do you remember your testimony about whether
14 the minor contributor in 17Q2, which included a Y
15 chromosome below the stochastic threshold could be
16 used for comparison purposes?

17 A Well, my report says the minor component
18 is not suitable for comparison purposes due to
19 insufficient data, so it was not used then.

20 Q Okay. And tell me -- I've got a quote
21 from the trial and I will read it to you, and tell
22 me if you still concur with this. "Essentially I'm
23 saying I don't have anybody that I feel comfortable
24 trying to compare to the few alleles that are left
25 to that minor contributor."

1 A If that's my testimony as you stated it,
2 then that's my testimony --

3 Q Right.

4 A -- and I have to agree with it. Because
5 I, absolutely, ma'am, I will not change a single
6 word in my testimony.

7 Q Did you get a chance before this
8 deposition, did you go back and review your
9 testimony?

10 A I've reviewed it --

11 Q Just in getting ready?

12 A -- numerous times, but as to exactly what
13 I have in my memory, you know, I -- I remember the
14 case very clearly, I remember testifying on two
15 different occasions, but to tell you verbatim what I
16 said, I would have to literally get my testimony
17 out, find the page, the -- the line, and go from
18 there. But if you are quoting from my testimony,
19 then I -- I'm not going to disagree with any of it,
20 because that's obviously what I said.

21 Q Okay. When you said that you'd -- you'd
22 reviewed your testimony numerous times in the
23 Holtzclaw case, for what reason after your testimony
24 did you review it again?

25 A Well, I had -- I had a copy of the -- the

1 those items, even though it could be anybody under
2 the sun that was in those mixtures, they really
3 were -- were not worth anything for comparison
4 purposes.

5 Q Okay. So my question is, Exhibit 9 that I
6 handed you, which are your -- your notes, are -- is
7 that limited to just Rosetta Grate or does it have
8 more information?

9 A Okay. SD14-399 Number 1A-A was either --

10 Q Yes.

11 A Was the front part of the chair back, that
12 same sample number, 1B-A was the chair --

13 Q Yes.

14 A -- front or back, one is the front and one
15 is the back, and I just took wet swabs and I
16 dampened two of them and I just rubbed all over the
17 vinyl to see if there's anything of probative value
18 there, which in this case, there wasn't because of
19 the time length that had gone by from the incident
20 to when samples were collected.

21 Q All right. So 7D14-399 RBQ, what is that?

22 A I'm sorry, I -- I don't see that.

23 Q It's right under 1B-A, so --

24 A Oh, it's --

25 Q -- down here on sample results.

1 gone any further than that.

2 Q Okay. So at trial you were asked by
3 Mr. Gieger on this particular -- on 17Q3 and Q4, he
4 said, "So there's no 12 at either one of the swabs,
5 17Q3 and 17Q4, and so that's not him?" Referring to
6 Holtzclaw.

7 A Was he talking about D19?

8 Q Yes.

9 A He was?

10 Q Yes.

11 A If that's what my testimony says, then
12 that's what I said, ma'am. As I started out in the
13 very --

14 Q You never claim that you --

15 A As I started out in the very beginning,
16 whatever I testified in court to, I am not changing
17 it. So if you are reading what my answer is, that's
18 what I said. And I'm not changing it.

19 Q So even if you made a mistake, you would
20 not change your testimony?

21 A Ma'am, I don't believe I made any
22 mistakes.

23 Q Have you ever made a mistake testifying?

24 A Not that I'm aware of, but I'm not 100
25 percent sure. And nothing has been brought to my

1 THE WITNESS: No, no, this, this.

2 MR. SMITH: Okay.

3 THE WITNESS: My report specifically
4 states at D -- or at 17-1 -- 17Q1-A, "All other --

5 Q Right.

6 A -- reference material mentioned in this
7 report is excluded as potential contributors to this
8 mixture," and my inclusion was Ms. Gardner. So that
9 says to me that Kerri Hunt was excluded.

10 Q (By Ms. Zellner) Okay. Let's look at
11 what I've marked as Exhibit 11.

12 (Exhibit Number 11 marked for
13 identification and made part of the
14 record)

15 Q (By Ms. Zellner) Do you recognize this
16 document?

17 A Not really.

18 Q Okay. So it's a -- the state disclosed
19 this as a description of your testimony.

20 A Okay.

21 Q If you could review it, review it, please,
22 and tell me if this is an accurate description of
23 the testimony that you were planning to give in the
24 Holtzclaw trial.

25 MR. SMITH: I'm going to object to the

1 form of the question since it's not her document,
2 but she can certainly look at it.

3 (Witness reviews document)

4 THE WITNESS: Okay. This is from Gayland
5 Gieger, I assume.

6 Q (By Ms. Zellner) That was my question, do
7 you recall providing Mr. Gieger with your planned
8 testimony, did you provide him with this
9 information?

10 A I -- I supplied Mr. Gieger with all of my
11 reports and he and I had a pretrial conference the
12 Friday before they started picking a jury. This --
13 I don't -- I have never seen this, this -- this
14 document. I -- actually, I told Gayland that there
15 is no way I could determine whether the sample came
16 from vaginal or saliva in his pants, you know, it
17 could have come from vaginal secretions from a
18 sexual assault, I have no idea, I was not present.
19 I mean, if that's what Ms. Gardner said happened,
20 I'm not going to refute it. But I have no way of
21 knowing what the body fluid is and I will not and I
22 do not know it today.

23 Q Okay. Do you -- did you tell Prosecutor
24 Gieger that Holtzclaw's DNA -- because Holtzclaw's
25 DNA was not found on the fly of his pants, that

1 Q (By Ms. Zellner) All right. And so his
2 DNA is not found in his pants, so how did that lead
3 you to the conclusion that Gardner's DNA to be
4 transferred to the pants, it -- it most likely was
5 contained in some type of body fluid, including
6 vaginal secretion or saliva?

7 A Well, Gayland and I discussed this, he
8 said, is it possible it could be vaginal secretions,
9 I said, it is possible. But the defense said, is it
10 possible for him to have gotten his DNA -- her DNA
11 on his hands from rustling through her purse, well,
12 I guess it's possible, but then again, is it
13 probable, that's DNA that is, you know, kind of
14 transient.

15 So, you know, a scientist would have to
16 make a little bit of an assumption that the sample,
17 to stay as preserved as it was and to be, you know,
18 a almost pristine sample, that it was probably a
19 liquid. Now, vaginal secretions are generally
20 rather liquid, as well as the mixture of the vaginal
21 secretions with ejaculation. Now, I don't know if
22 he ejaculated, I have no idea what happened, but my
23 testimony was that it could be from vaginal
24 secretions, I have no way of knowing. Now, this
25 is -- these are Gayland's words, not mine.

1 also stated that I did not know what body fluid
2 transferred from -- from Gardner into his pants.

3 Q So you believe that you testified as to
4 what you just said, that you did not know where the
5 DNA was from on Gardner; is that right?

6 A Well, where are you -- what line, what
7 page, where are you reading this from? I mean, I'm
8 not --

9 Q I'm just asking you, I'm asking you --
10 we're looking at your proposed trial testimony, and
11 you say that Mr. Gieger prepared that; correct?

12 A I didn't, I don't know who did. Was it
13 Gayland, was it Lori, was it -- I don't know who
14 prepared this, ma'am.

15 Q Is there any part of this document that
16 I've handed you and marked as Exhibit 11 that's
17 inaccurate?

18 MR. SMITH: Object to the form. You've
19 asked her four times so far, it's not her document.

20 MS. ZELLNER: I'm asking her, this
21 purports to be what she's going to testify at trial,
22 I'm giving her the opportunity to correct anything
23 that's inaccurate in this. I'm not asking her if
24 she drafted it, we know she didn't.

25 Q (By Ms. Zellner) So you're looking at

1 what Mr. Gieger drafted on your behalf, and I am
2 giving you the opportunity to correct it. If you
3 don't want to, fine.

4 A I am going to revert back to my testimony,
5 whatever I testified to is what I testified to that
6 day. I'm not changing it, I'm not correcting it, if
7 there's something wrong, so be it, I -- I don't -- I
8 am not changing anything, ma'am. And I'm not trying
9 to be rude.

10 Q Is it a correct statement that Gardner's
11 DNA most likely contained some type of body fluid,
12 either vaginal secretion or saliva?

13 A The pants -- most likely some type of body
14 fluid -- if that's what I testified to, then that is
15 correct, yes.

16 Q And as you sit here today, you believe
17 that that is -- that is a correct assessment of the
18 DNA of Gardner's that was found on Holtzclaw's
19 pants, that it was either vaginal secretion or
20 saliva?

21 MR. SMITH: Object to the form.

22 THE WITNESS: If I testified that it was
23 either vaginal secretions or saliva, then that is my
24 testimony. I'm not changing anything.

25 Q (By Ms. Zellner) I know it's your

1 Q I have no idea.

2 A -- no testing in my laboratory that I
3 could do to determine if it was vaginal fluid. Now,
4 I don't have any, I'm not aware of any, so I mean,
5 if there's some brand-new, glorious testing out
6 there, microscopic or presumptive or whatever, I am
7 not aware of it, ma'am.

8 Q Next question, if a prosecutor were to
9 claim based on your DNA evidence from the fly of
10 Holtzclaw's uniform pants that it was a fact that
11 Ms. Gardner's DNA came from the walls of her vagina,
12 was transferred in vaginal fluids to the outside or
13 inside of the fly, would that claim be correct, that
14 it was a fact that Gardner's DNA came from the walls
15 of her vagina and was transferred with vaginal
16 fluid?

17 A If that's the way Ms. Gardner testified, I
18 am not -- I would not be one to dispute her. She
19 knew what happened to her, I didn't.

20 Q If the prosecutor said it was a fact that
21 the D -- that Gardner's DNA came from vaginal fluid,
22 would you disagree, based on what you've testified
23 to today, that it was a fact, an undisputed fact
24 that Gardner's DNA came from vaginal fluid, would
25 you agree or disagree with that statement?

1 A I wouldn't disagree because that was what
2 the young woman testified to then. I mean, she
3 testified before I did. I didn't know what the
4 fluid was at the time, but it was -- to me, that
5 is -- that is not something that is in my purview to
6 disagree with. She knew what happened to her, not
7 me.

8 Q My question, though, earlier to you, and I
9 believe you answered it, was you couldn't say
10 definitively that Gardner's DNA came from vaginal
11 fluids, did I understand you correctly?

12 A Yes, I said that.

13 Q Right. You said that you weren't certain
14 that Gardner's DNA came from vaginal fluids?

15 A At the time I did all this testing, I had
16 no idea.

17 Q You had no idea where the Gardner's DNA
18 came from?

19 A Well, it could have come from her mouth,
20 it could have come from her -- her skin, it could
21 have come from her vaginal vault, it could have come
22 from, I don't know, her sneezing on him, I don't
23 know, ma'am.

24 But I -- I do know that if that's -- if
25 she testified to the jury that it was penile vaginal

1 penetration, and then I was told that, in fact, this
2 victim had testified to that, why would I dispute
3 the woman's testimony by saying, oh, no, it couldn't
4 have come from vaginal secretions, because I do not
5 have a test?

6 Q Right. And I was asking you not as a
7 trial observer, I was asking you as a scientist, if
8 you could say, based on a reasonable degree of
9 scientific certainty, not witness testimony,
10 scientific certainty, that Gardner's DNA came from
11 vaginal fluid?

12 A No, I can't because I do not -- our
13 laboratory --

14 Q Thank you.

15 A -- does not have a test for vaginal
16 secretions, period.

17 Q Do you recall during Holtzclaw's trial
18 being asked by Prosecutor Gieger, and this was the
19 exact quote, "May be obvious, but can epithelial
20 cells, are they more easily transferred onto another
21 object if there is fluid involved," to which you
22 testified, "Yes, they are"?

23 MR. SMITH: What page?

24 Q (By Ms. Zellner) That is Page 2709.

25 A 2709? Where is --

1 than 6-A?

2 A Yes, Q2 was.

3 Q What are the areas of expertise that you
4 were qualified to testify in court about?

5 A Basically serology and DNA. I guess it
6 was considered under biology.

7 Q Have you ever been testified -- have you
8 ever testified as an expert in physiology of sex
9 organs and reproduction?

10 A No, that was the SANE nurse's job.

11 Q And you're not -- right. You're not --
12 you're not a forensic nurse; correct?

13 A Correct.

14 Q Had you had any training in regard to rape
15 victims and the human body's response to sexual
16 intercourse?

17 A I attended a sex crimes school and then we
18 were given a little bit of training at the FBI in
19 sexual assaults.

20 Q Okay. Did you get specific training about
21 a young woman, a 17 year old, and her ability,
22 physical ability to produce lubrication?

23 A No, but at one time I was a 17-year-old
24 female and I kind of remember what it was like to be
25 well-lubricated.

1 Q And so the testimony you gave at trial at
2 Page 4065, quote, A young woman of her age would be
3 very likely to have quite a bit of lubrication and
4 that lubrication could transfer cells, if, in fact,
5 that is what occurred." That was not based on your
6 expertise as a serologist, but rather just personal
7 experience?

8 A I would say personal experience, I mean,
9 I'm a female, I think I have an idea of how my body
10 responds to things and how other females do. Now,
11 I'm not sure if a male could testify to a 17 year
12 old's response to a sexual type situation.

13 Q Okay. Did you complete any tests to
14 determine the type of cells from which the DNA from
15 the fly of the pants originated?

16 A Well, they were cells that contained DNA
17 or I wouldn't have been able to get a profile.

18 Q Okay. But did you do any tests to
19 determine if that DNA could have come from blood
20 cells, muscle cells, immune system cells?

21 A No.

22 Q Okay. Are blood cells, muscle cells and
23 immune system cells the same as epithelial cells?

24 A Red blood cells are the only cells in the
25 human body that you cannot obtain DNA from because

1 their sole function is to carry oxygen to and from
2 different body -- body parts.

3 Q Is there any way to confirm that the DNA
4 on Holtzclaw's pants came from epithelial cells?

5 A They came from cells that contained DNA.

6 Q Yeah, my question is different. Is there
7 any way to confirm that the DNA on Holtzclaw's pants
8 came from epithelial cells?

9 A Well, that's kind of what I was looking
10 for in the beginning on the front of his pants, were
11 just epithelial cells that transferred from Jannie
12 Ligons' hands, but I don't have a specific test to
13 determine that they came from her hands.

14 Q Okay. What is a source attribution error,
15 source attribution error?

16 A Not familiar with the term, ma'am.

17 Q Okay. So you testified numerous times at
18 trial that the DNA derived from Gardner, is it
19 theoretically possible that another individual
20 happened to have the same alleles as Gardner as the
21 16 loci tested, but different DNA elsewhere on the
22 genome?

23 A I don't remember that question.

24 Q Okay. Are you -- let me give you a few
25 more. Were you -- when you were employed at OCPD,